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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re : **Chapter 11 Case No.**
: **LEHMAN BROTHERS HOLDINGS INC., et al.,** : **08-13555 (JMP)**
: **Debtors.** : **(Jointly Administered)**
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**REPLY TO CF MIDAS BALANCED GROWTH FUND'S SECOND
SUPPLEMENTAL RESPONSE TO THE DEBTORS' ONE HUNDRED
FORTY-THIRD OMNIBUS OBJECTION TO CLAIMS (LATE-FILED CLAIMS)**

TO THE HONORABLE JAMES M. PECK,
UNITED STATES BANKRUPTCY JUDGE:

Lehman Brothers Holdings Inc. ("LBHI") as Plan Administrator under the
*Modified Third Amended Joint Chapter 11 Plan of Lehman Brothers Holdings Inc. and its
Affiliated Debtors* [ECF No. 22737] (the "Plan") for the entities in the above referenced chapter
11 cases (collectively, the "Chapter 11 Estates"), files this reply (the "Supplemental Reply") to
the second supplemental response (the "Supplemental Response") of CF Midas Balanced
Growth Fund (the "CF Fund") to the One Hundred Forty-Third Omnibus Objection to Claims
(Late-Filed Claims) (the "Objection") and respectfully represents as follows:¹

¹ This Supplemental Reply only addresses the Supplemental Response filed by the CF Fund in respect of
Claim No. 67153 (the "Late-Filed Claim"). At a hearing held on December 19, 2012, this Court requested
"relatively concise follow-up submissions by each of the claimant and the debtor" concerning the applicability of 11
U.S.C. § 502(j) to the Late-Filed Claim. See Dec. 19, 2012 Hr'g Tr. at 42:24-25, an excerpt of which is attached
hereto as Exhibit A. The Court stated further that it would "reserve any further comments with regard to the
fundamental question of excusable neglect" until the applicability of 11 U.S.C. § 502(j) had been addressed. See

PRELIMINARY STATEMENT

1. In June 2011, LBHI was faced with the daunting task of administering more than 21,000 proofs of claim based on Lehman Program Securities (as defined in the Bar Date Order)² asserting an aggregate amount of approximately \$55 billion. The claims were based on approximately 5,000 securities with a notional amount of \$40 billion issued by certain of LBHI's foreign affiliates to thousands of investors around the globe and guaranteed by LBHI. The swift determination of the allowed amounts of these claims, solely for voting and distribution purposes, was critical to the formulation and ultimately, consensual confirmation of the Plan – so critical, in fact, that certain creditors insisted that a condition precedent to the confirmation of the Plan be this Court's approval, and LBHI's implementation, of a set of procedures that would allow LBHI to propose allowed amounts for these claims and consensually resolve any disputes relating thereto within a relatively short period of time (the "LPS Procedures"). The LPS Procedures were intended to ease the administration of this immense number of complex claims while neither affecting nor modifying in any way the substantive rights of any claimant to dispute LBHI's proposed allowed claim amounts.

2. On August 10, 2011, this Court entered an order approving the LPS Procedures [ECF No. 19120] (the "LPS Procedures Order"), a copy of which is attached hereto as Exhibit B. In accordance with the LPS Procedures and the LPS Procedures Order, LBHI sent notices of proposed allowed claim amounts (each, a "Structured Securities Notice") to each holder of a claim based on a Lehman Program Security. Pursuant to the order entered by this Court on December 6, 2011 confirming the Plan [ECF No. 23023] (the "Confirmation Order"), a

Dec. 19, 2012 Hr'g Tr. at 43:6-9. Accordingly, this Supplemental Reply is limited in scope to the applicability of 11 U.S.C. § 502(j) to the Late-Filed Claim.

² Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Objection.

copy of which is attached hereto as Exhibit C, to the extent that holders of such claims agreed with the proposed amount or did not respond by the established deadline, such claims became Allowed (as defined by the Plan) in the amount set forth on the Structured Securities Notice, but subject to certain significant exceptions – specifically:

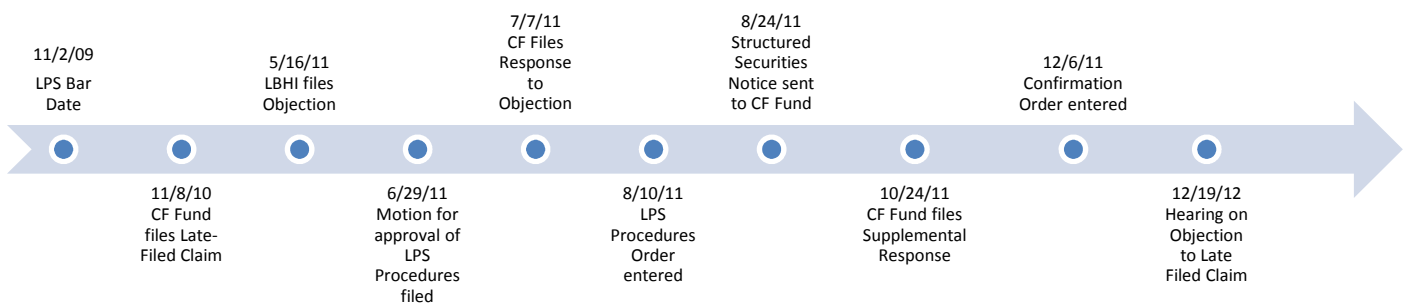
subject to the Debtors’ right to object to Claims based on [Lehman Program Securities] on the grounds that such claims do not include a blocking number or include an invalid blocking number, are duplicative of other claims, have been amended and superseded, or otherwise do not comply with the provisions of the Bar Date Order is fully preserved.

(Confirmation Order at ¶ 71.) Similarly, the LPS Procedures Order provides that LBHI may still object to claims based on Lehman Program Securities “at any time, including, after such claims have been allowed for the purposes of voting and distributions under the Plan,” on various grounds, including that the claims “do not comply with the provisions of the Bar Date Order.” (LPS Procedures Order at p.5.) These exceptions were included in both the LPS Procedures Order and the Confirmation Order because at the time that these orders were entered, LBHI had not completed its review of all 21,000 proofs of claim based on Lehman Program Securities other than to determine LBHI’s proposed allowed amounts for voting and distribution purposes. For this reason, it was critical that the LPS Procedures Order and Confirmation Order preserve LBHI’s ability to object to such claims on any other grounds.

3. Both the LPS Procedures Order – which provided the basis for sending, and is referenced in each of, the Structured Securities Notices – and the Confirmation Order explicitly preserve LBHI’s ability to prosecute the Objection notwithstanding the delivery of a Structured Securities Notice to the CF Fund. Notwithstanding the clear and unambiguous language of *two* orders of this Court, the CF Fund persists in advancing the *non sequitur* that by sending a Structured Securities Notice to the CF Fund, LBHI has withdrawn the Objection, that

the Objection has been “mooted,” and that therefore, the CF Fund’s Late-Filed Claim is “deemed allowed” by the absence of an objection.

4. LBHI has never withdrawn the Objection. On the contrary, pursuant to the LPS Procedures order and the Confirmation Order, LBHI’s right to prosecute the Objection has been explicitly preserved even after LBHI sent the CF Fund a Structured Securities Notice. Furthermore, LBHI has continuously treated the Late-Filed Claim as a Disputed Claim (as defined by the Plan). After the Structured Securities Notice was sent to the CF Fund, LBHI filed and served on the CF Fund *six* notices of adjournment of the Objection with respect to the Late-Filed Claim, on September 29, 2011 [ECF No. 20390]; December 14, 2011 [ECF No. 23392]; January 13, 2012 [ECF No. 24275]; February 16, 2012 [ECF No. 25473]; March 14, 2012 [26430]; and April 19, 2012 [ECF No. 27509]. Moreover, the CF Fund has made no indication that it has been prejudiced in any way by the receipt of a Structured Securities Notice while the Objection was pending. The timeline below indicates that there has been no prejudice to the CF Fund:



5. The CF Fund nevertheless inexplicably insists that its claim has somehow been “deemed allowed,” and that therefore LBHI must now file a motion for reconsideration pursuant section 502(j) of the Bankruptcy Code. Section 502(j), however, can only apply to claims that have been allowed or disallowed pursuant to a court order. The Bankruptcy Rule that

implements section 502(j), Bankruptcy Rule 3008, provides that “a party may move for reconsideration of an order allowing or disallowing a claim against the estate.” *See* Fed. R. Bankr. P. 3008. The only authority cited by the CF Fund in support of its argument that section 502(j) applies to “*claims*...not to *orders*” (Supplemental Response at ¶ 4) is *Yancey v. Citifinancial (In re Yancey)*, 301 B.R. 861 (Bankr. W.D. Tenn. 2003) (discussed below); but this case does not stand for such a proposition at all, and in fact, only confirms that section 502(j) applies to claims that have been allowed or disallowed pursuant to an order. As the CF Fund concedes in the Supplemental Response, “there was no ‘order’ allowing CF Fund’s claim.” (Supplemental Response at n.2.) Section 502(j) is therefore inapplicable to Late-Filed Claim, which was filed more than one year after the Bar Date applicable to claims based on Lehman Program Securities and should therefore be expunged.

**UNDER THE PLAIN TERMS OF THE CONFIRMATION ORDER
AND LPS PROCEDURES ORDER, THE LATE FILED CLAIM IS NOT “ALLOWED”**

6. The CF Fund has advanced no credible argument for why the clear language of the LPS Procedures Order or the Confirmation Order should not apply to its Late-Filed Claim, other than to state that it was not served with notice of the LPS Procedures Order, and that it would surely have objected to the language cited above. In other words, the CF Fund takes the preposterous position that the receipt of a Structured Securities Notice caused the Late-Filed Claim to be “allowed,” but that it is not bound by the reservations of rights in the very same order that serves as the sole legal authority for sending and giving effect to the Structured Securities Notice and implementing the LPS Procedures. Either the LPS Procedures Order applies *in toto* to the CF Fund and the Late-Filed Claim, or it does not. If the former, then the reservation of rights in the order applies to the Late-Filed Claim; if the latter, then the Structured

Securities Notice sent to the CF Fund was void *ab initio*. In either case, the Late-Filed Claim has not been “allowed” and LBHI’s right to prosecute the Objection is fully preserved.

7. Despite the CF Fund’s grievances about notice, it in fact had ample notice of the LPS Procedures Order and 60 days from the receipt of the Structured Securities Notice to exempt itself from the effects of the order. Under the terms of the LPS Procedures Order, if the CF Fund had delivered a written response disputing the Structured Securities Notice that it received within 60 days of receipt of the notice, then the motion seeking approval of the LPS Procedures Order would have been deemed an objection to the Late-Filed Claim.³ (LPS Procedures Order at p.4.) Thus, the LPS Procedures Order preserved the substantive rights of all holders of claims based on Lehman Program Securities and effectively offered such claimants the ability to “opt out” of the LPS Procedures. Because the CF Fund had the ability to opt out of the LPS Procedures, the CF Fund can show no prejudice arising from any failure to provide it with notice of the motion seeking entry of the LPS Procedures Order.

8. But the CF Fund chose not to dispute the Structured Securities Notice that it received, which notice also referenced the LPS Procedures Order. As such, the CF Fund was on notice of the LPS Procedures Order, had an opportunity to opt out and remain unaffected by such order, and chose not to do so. Now, more than a year after it received a Structured Securities Notice, the CF Fund should not be afforded the opportunity to cherry-pick those aspects of the LPS Procedures Order that are appealing to it and exempt itself from the rest.

³ This objection to the amount of the Late-Filed Claim would have been in addition to the already pending Objection, which was based on the late filing of the Late-Filed Claim.

UNDER THE PLAIN TERMS OF THE PLAN, THE LATE-FILED CLAIM IS BY DEFINITION “DISPUTED” AND NOT “ALLOWED”

9. Moreover, it is impossible for the Late-Filed Claim to be an “Allowed”

claim within the meaning of the Plan and Confirmation Order. Under the Plan,

Allowed means, with reference to any Claim against the Debtors, (a) any Claim that has been listed by the Debtors in their Schedules.. as liquidated in amount and not disputed or contingent and for which no contrary proof of claim has been filed, (b) any Claim allowed hereunder, (c) any Claim that is not Disputed, (d) any Claim that is compromised, settled, or otherwise resolved pursuant to the authority granted to the Debtors pursuant to a Final Order of the Bankruptcy Court...or (e) any Claim that, if Disputed, has been Allowed by Final Order;...

(Plan at § 1.4.) None of the above conditions is true with respect to the Late-Filed Claim.

Specifically, (a) the Late-Filed Claim was not listed on LBHI’s Schedules, (b) the Late-Filed Claim was not allowed pursuant to the Plan, (c) the Late-Filed Claim *is* Disputed (as explained below), (d) the Late-Filed Claim has not been compromised or settled pursuant to a final order of this Court, and (e) the Late-Filed Claim has not been Allowed by a final order of this Court.

10. Further, even if LBHI *had* withdrawn the Objection (which it has not) by sending a Structured Securities Notice to the CF Fund, absent an Order deeming the Late-Filed Claim to be timely filed, the mere fact that the Late-Filed Claim was filed after the Bar Date renders it, by definition, a Disputed Claim, because under the Plan,

Disputed means, with reference to any Claim...(b) any Claim, proof of which was required to be filed by the Bar Date Order or another Final Order of the Bankruptcy Court in a form and manner proscribed in such order, but as to which a proof of Claim was not timely or properly filed.”

(Plan at § 1.46.) Because the Late-Filed Claim was filed on November 8, 2010, more than one year after the Bar Date applicable to claims based on Lehman Program Securities, the Late-Filed Claim “was not timely or properly filed” and is therefore a Disputed Claim, and – despite all the

CF Fund's creative sophistry – *not* an Allowed Claim, under the plain and unambiguous terms of the Plan, the Confirmation Order, and the LPS Procedures Order.

**SECTION 502(j) APPLIES ONLY
TO ORDERS ALLOWING OR DISALLOWING CLAIMS**

11. Section 502(j) cannot be applied to the Late-Filed Claim because, as the CF Fund concedes, there has never been an order entered by this or any other court allowing the Late-Filed Claim. Moreover, the CF Fund's argument that 502(j) "applies to *claims* that have been allowed or disallowed, and not to *orders* allowing or disallowing claims" (Supplemental Response at ¶ 4), cannot be reconciled with any of the Bankruptcy Rules that implement or refer to section 502(j) and is not supported by any case law or other authority cited by the CF Fund. As stated above, section 502(j) of the Bankruptcy Code is implemented by Bankruptcy Rule 3008. *See, e.g., In re Enron Corp.*, 2003 WL 1562202 at *11 (Bankr. S.D.N.Y. 2003) ("Section 502(j) is implemented by Rule 3008 of the Federal Rules of Bankruptcy Procedure"); *In re Harbor Fin. Group, Inc.*, 303 B.R. 124, 131 (Bankr. N.D. Tex. 2003) ("Bankruptcy Rule 3008 implements [Bankruptcy Code] § 502(j)"); *In re Wylie*, 349 B.R. 204, 209 (9th Cir. BAP 2006) ("Rule 3008 implements section 502(j)"). Bankruptcy Rule 3008 provides:

A party in interest may move for reconsideration of an
order allowing or disallowing a claim against the estate.

See FED. R. BANKR. P. 3008. As noted by the CF Fund (Supplemental Response at ¶15), Bankruptcy Rule 9024 also applies to section 502(j), and provides that the one year limitation prescribed under Rule 60(c) of the Federal Rules of Civil Procedure does not apply to "an order allowing or disallowing a claim against the estate entered without contest." *See* FED. R. BANKR. P. 9024.

12. There is no Bankruptcy Rule that implements section 502(j) for the purpose of reconsideration of a claim that is “deemed allowed” pursuant to section 502(a) of the Bankruptcy Code, because the means of challenging such claims is to file an objection pursuant to Bankruptcy Rule 3007. *See* 11 U.S.C. § 502(a) (“A claim...is deemed allowed, unless a party in interest...objects.”); *see also* Fed. R. Bankr. Proc. 3007 (“[a]n objection to the allowance of a claim shall be in writing and filed.”). The CF Fund cites no authority that would support the argument that section 502(j) applies to claims that are “deemed allowed” by means other than an order. Although CF Fund cites to *Yancey* and argues that this case supports such a proposition, the facts and holding of that case support no such conclusion. In *Yancey*, the secured claim in question had been allowed pursuant to an administrative order that is commonly entered in chapter 13 cases in the Western District of Tennessee:

...the chapter 13 trustee routinely examines proofs of claims after the bar date for filing has passed and submits an administrative order that allows those claims to which the trustee does not object. Such an order was submitted in this case and was entered on September 24, 2002, allowing twenty claims, including [the secured creditor’s claim]....

See In re Yancey, 301 B.R. at 864. The order in *Yancey* provided parties in interest 30 days to file objections to the claims, after which they were allowed by such order. *See id.* Thus, the court in *Yancey* in no way indicated that section 502(j) applied to a claim that had been allowed “by operation of law” as the CF Fund suggests. (Supplemental Response at ¶ 6.) Quite the contrary: the court in *Yancey* stated that section 502(j) could be applied to a previously entered order allowing the claim of a secured creditor in that case.

13. The CF Fund is not the first to have mischaracterized the holding in *Yancey*; several creditors in *In re Chapter 13 Proceedings of Herrera*, 369 B.R. 395 (E.D. Wis. 2007) made the same argument. Like the CF Fund, the creditors in *Herrera* cited *Yancey* in an

attempt to argue that, if a claim has been “deemed allowed” absent an objection, the debtor’s proper remedy is to seek reconsideration. The district court disagreed with this reading of *Yancey* and found, instead, that

[*Yancey*] did not hold that a debtor must move for reconsideration pursuant to Rule 3008 for claims that were deemed allowed by 11 U.S.C. § 502(a)...To the extent that the court discussed the rules, it recognized that Rule 3008 applies to reconsider *an order* allowing or disallowing a claim.

See id. at 400-01 (internal citations omitted).⁴

14. In *Herrera*, the District Court for the Eastern District of Wisconsin heard the consolidated appeals in several chapter 13 cases that shared the following characteristics:

Chapter 13 plans were filed and confirmed by the bankruptcy court, creditors filed proofs of claim, Chapter 13 trustees filed a notice of intent to pay claims, the Chapter 13 debtors did not object to the creditors’ claims within the time period outlined in the trustees’ notices, the debtors (on behalf of their respective bankruptcy estates and other estates similarly situated) filed adversary proceedings seeking disgorgement of alleged overpayments made to the creditors, and the creditors filed motions to dismiss.

In re Chapter 13 Proceedings of Herrera, 369 B.R. at 398. The chapter 13 cases were consolidated for purposes of the motions to dismiss, and the bankruptcy court held that the adversary proceedings were procedurally deficient and that the debtors were required to file motions for reconsideration pursuant to Bankruptcy Rule 3008, because the claims had already been “allowed.” *See id.*

⁴ Rather, according to the *Herrera* court, “*In re Yancey* addressed the issue of whether there is a private right of action under a combination of Bankruptcy Code § 105(a) and Bankruptcy Rule 2016 that would permit the court to hear and determine a putative class action complaint.” *Id.*

15. On appeal, the district court reversed the bankruptcy court's holding, stating that

[b]y its own terms, Rule 3008 applies after the bankruptcy court issues "an order" allowing or disallowing a claim against the estate. In the underlying bankruptcy cases, the creditors do not identify what orders the bankruptcy court should reconsider. There are no such orders; rather, the claims were only deemed allowed pursuant to 11 U.S.C. § 502(a) because the debtors had not yet objected to the claims.

Id. at 399. The district court explained, further, that

[i]f a claim is deemed allowed upon filing and if, as the bankruptcy court held, the debtor must move for reconsideration pursuant to Rule 3008 after a claim is deemed allowed, the debtor must always object to a claim via a motion for reconsideration and may never object pursuant to Rule 3007. Surely, this cannot be what the drafters of the rule intended. Instead, a more viable construction of Rule 3008 that gives effect to both rules is that Rule 3008 applies only to claims allowed by a court order, not claims deemed allowed by 11 U.S.C. § 502(a).

Id. at 400 (citing *Matter of Henderson*, 577 F.2d 997, 1001 (5th Cir.1978) ("[T]here cannot be a reconsideration of a claim which was allowed automatically without consideration.")).⁵

16. For the same reasons, this Court should follow the *Herrera* court's application of section 502(j) of the Bankruptcy Code and Bankruptcy Rule 3008, and reject the CF Fund's fanciful argument that LBHI must now move for reconsideration of the Late-Filed Claim – a claim that was not timely filed, has never been allowed, and remains subject to the Objection.

⁵ Notably, the district court in *Herrera* was not influenced by the fact that the chapter 13 trustee had sent notices of intent to pay the claims which, like the Structured Securities Notices sent by LBHI, set forth deadlines for parties to object to the proposed allowed amounts, because such notices "are not court-set deadlines." See *id.* at 400.

RESERVATION OF RIGHTS

17. In the event that the Court denies the Objection with respect to the Late-Filed Claim and/or grants the relief requested in the Supplemental Response and other responses to the Objection filed by the CF Fund, the Plan Administrator reserves the right to object to the validity and amount of any claims that may be filed by the CF Fund (collectively, the “Responses”). The Plan Administrator reserves the right to conduct discovery as to the Late-Filed Claim and any matters raised in the Responses and to supplement this filing as a result thereof.

CONCLUSION

WHEREFORE, for the reasons set forth above, in the Objection, and in the *Omnibus Reply to Certain Responses to Debtors One Hundred Forty-Third and Three Hundred Twenty-Third Omnibus Objections to Claims (Late-Filed Claims)* filed on December 17, 2012 [ECF No. 32854], the Plan Administrator respectfully requests that the Court enter an order disallowing and expunging the Late-Filed Claim in its entirety and grant such other and further relief as the Court may deem just and appropriate.

Dated: January 28, 2012
New York, New York

/s/ Robert J. Lemons

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EXHIBIT A

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 08-13555-jmp

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5 In the Matter of:

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7 LEHMAN BROTHERS HOLDINGS, INC.,

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9 Debtors.

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11 - - - - - x

12

13 U.S. Bankruptcy Court

14 One Bowling Green

15 New York, New York

16

17 December 19, 2012

18 10:06 AM

19

20 B E F O R E :

21 HON JAMES M. PECK

22 U.S. BANKRUPTCY JUDGE

23

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1 claims are disallowed, both those two, LBSF and LBHI.

2 MR. TSAO: Thank you, Your Honor.

3 MR. BRUENS: Your Honor, may we be excused?

4 THE COURT: Yes.

5 MR. BRUENS: Thank you.

6 MR. HORWITZ: Okay. We think that the declarant
7 for the Midas Fund has been able to dial in. So --

8 THE COURT: Okay.

9 MR. HORWITZ: -- we will proceed with --

10 THE COURT: Let's confirm that.

11 Is there someone on the telephone acting on behalf
12 of CF Midas Balanced Growth Fund?

13 I don't hear any response.

14 MR. GEOGHAN: No, Your Honor, I don't, either. I
15 thought I heard the click that they were coming in. There's
16 apparently a problem with the international calling on the
17 conference I.D. number they were provided. They've been
18 trying to get in since about a quarter to 10:00.

19 THE COURT: Do you want to take a short recess
20 while you try to clarify this, or do you want to proceed in
21 the absence of your declarant?

22 MR. GEOGHAN: If the Court doesn't have questions
23 for my declarant, I think we could proceed in the absence of
24 the declarant. If the Court believes there will be
25 questions, then I would ask the opportunity to wait a few

1 minutes.

2 THE COURT: I don't have any questions for the
3 declarant. I've read the declaration.

4 MR. GEOGHAN: Thank you, Your Honor. Then, I
5 believe we can proceed.

6 THE COURT: Let's do that.

7 MR. HORWITZ: So the next matter is the one
8 hundred and forth-third omnibus objection to claims. This
9 objection sought to disallow certain claims that were filed
10 after the bar date, LBHI's proceeding with respect to the
11 claim of CF Midas Balanced Growth Fund. That is claim
12 67193.

13 The Midas Fund's claim is a Lehman Program
14 securities claim. According to the declaration of Nigel
15 Boyland (ph) that was filed in support of the Midas Fund's
16 response, the Midas Fund holds a structured note issued by
17 Lehman Brothers Treasury Co., BV, the Dutch entity that
18 issued structured notes, which Mr. Boyland says was
19 guaranteed by LBHI.

20 Your Honor, the bar date for claims based on
21 Lehman Program securities, which includes structured notes
22 issued by LBT, was November 2nd, 2009. The Midas Fund filed
23 its claim a full year after the bar date, on November 8th,
24 2010. In its response, the Midas Fund argues that the Court
25 should allow the claim pursuant to bankruptcy rule

1 9006(b)(1) on the grounds of excusable neglect.

2 Your Honor, the plan administrator has reviewed
3 the response filed by the Midas Fund and is unable to
4 discern any action that the Midas Fund took to determine
5 whether its asserted claim against LBHI was subject to the
6 bar date order. From the response, it appears that the
7 Midas Fund relied upon notices that it received from the LBT
8 trustees presiding over the -- or administering the LBT
9 bankruptcy case in the Netherlands.

10 In fact, the Midas Fund states that the reason for
11 its delay of more than one year is that it relied on these
12 notices, which the Midas Fund claims led it to believe that
13 claims did not need to be filed against LBHI in respect of
14 LBT's structured notes. I would point out, again,
15 Your Honor, that the Midas Fund, while it says very little
16 about itself in its papers, is clearly not an
17 unsophisticated party. It certainly is not a pro se
18 individual, which as many claimants were who filed Lehman
19 Program securities claims. There were approximately 25,000
20 claims filed against LBHI based on Lehman Program
21 securities, and many, if not most of them, were filed by or
22 on behalf of individuals.

23 Second, the Midas Fund doesn't attach to its reply
24 or to the accompanying declaration any of the notices that
25 it refers to, and, according to Mr. Boyland's declaration,

1 the Midas Fund received three notices. The third notice was
2 dated December 22nd, 2008 and stated that beneficial holders
3 of notes issued by LBT are not required to file claims with
4 the bankruptcy trustee, and the bankruptcy trustee aims to
5 coordinate with the LBHI process of filing claims by holders
6 of notes in respect of the LBHI guarantee in the chapter 11
7 proceedings.

8 Although a copy of this notice was not attached to
9 the Midas Fund's reply or to the declaration, I have copies
10 of the third notice. I downloaded them from LBT's Web site,
11 lehmanbrotherstreasury.com. I have copies that I can hand
12 to the Court and to counsel for the Midas Funds, if the
13 Court would like to look at them.

14 THE COURT: Is there any objection to my taking a
15 look at these downloaded notices?

16 MR. GEOGHAN: None, Your Honor. Copies were
17 provided to counsel. I have copies of all three notices
18 here, if the Court desires.

19 THE COURT: Okay. I'll take a look at them then.
20 Thank you.

21 MR. HORWITZ: Your Honor, the last sentence that I
22 just read to the Court is from section 2.5 of the third
23 notice to holders of LBT notes. The very next sentence,
24 after the one that I just read to the Court, says, "More
25 information on the insolvency proceedings of LBHI can be

1 found on HGTP\chapter11.epiqsystems.com under Lehman
2 Brothers Holdings, Inc. Chapter 11. As far as the
3 bankruptcy trustee is aware, as of the date of this notice,
4 no bar date has been set for the filing of claims in the
5 chapter 11 proceedings of LBHI."

6 "Noteholders are advised to regularly visit the
7 aforementioned Web site for updated information on LBHI.
8 Since the information that the bankruptcy trustee will
9 provide to noteholders is primarily limited to the
10 bankruptcy of LBT, the bankruptcy trustee will not issue a
11 notice if a bar date for the filing of claims is set in the
12 chapter 11 proceedings of LBHI."

13 Your Honor, this is the notice that the Midas Fund
14 read and reasonably relied upon or claims to have reasonably
15 relied upon. The language in the third notice clearly
16 indicates that LBHI is subject to a separate chapter 11 case
17 and that the requirements for filing claims against LBHI are
18 distinct from the requirements in the LBT proceeding. The
19 notice clearly warns creditors to monitor the Epiq Web site
20 for information regarding a separate bar date and separate
21 claims filing procedures in respect of guaranteed claims
22 against LBHI.

23 On October 1st, 2009, the LBT trustees actually
24 issued a fourth notice, which was posted on its Web site. I
25 have copies of that notice as well. Midas Fund does not say

1 in its reply or in the declaration that it received this
2 notice, but this notice was available on the Internet, and
3 the LBT trustees say that they issued it to all holders of
4 LBT notes. I would like to read from the first page of that
5 notice, and I can hand it up to the Court and to counsel for
6 the Midas Fund, if the Court's willing to hear that portion
7 of the notice.

8 THE COURT: Do you have any objection?

9 MR. GEOGHAN: Well, I don't believe so. I'd
10 reserve any right. I have yet to see the document. My
11 client doesn't have a copy of it. Presumably, it was
12 downloaded from the -- presumably, it's not an objectionable
13 document, though.

14 THE COURT: I think, regardless of what's in your
15 pleadings or what your declarant says he knew at the time,
16 this is relevant to the question of information available at
17 certain points in time to interested holders of near or
18 medium-term notes, and so, I'll consider it for whatever
19 weight it may be entitled to in this argument. It's unclear
20 to me that it's directly relevant, but I'm interested in
21 knowing what was generally out there in the public domain.

22 MR. GEOGHAN: Thank you, Your Honor.

23 MR. HORWITZ: And, Your Honor, the fourth notice
24 to creditors states on the very first page, "On July 2nd,
25 2009, the United States Bankruptcy Court for the Southern

1 District of New York, having jurisdiction over the chapter
2 11 cases of Lehman Brothers Holdings, Inc., entered an order
3 establishing November 2nd, 2009 at 5:00 p.m. prevailing
4 Eastern time as the last date and time for each person or
5 entity to file a proof of claim based upon claims arising
6 out of certain securities issued by LBHI or any of their
7 affiliates, including LBT outside of the United States."

8 Your Honor, in addition to these notices, we cite
9 in our papers the quarterly reports that the LBT trustee
10 issues to holders of LBT structured notes, specifically the
11 third public report in which the LBT trustee goes so far as
12 to -- never to explain the difference between the claims
13 filing requirements of LBT's Dutch bankruptcy proceeding and
14 LBHI's chapter 11 case. In addition to all of the
15 foregoing, as we state in our papers, notice of the
16 securities program bar date was published in 10 languages in
17 26 newspapers across 18 countries. I could list them, but
18 I'll spare the Court that litany.

19 The program securities bar date notice was also
20 provided to Euroclear, Clear Stream, and similar clearing
21 systems as well as to the issuers of Lehman Program
22 securities, including LBT, with instructions to distribute
23 the notice to the holders of Lehman Program securities.
24 Your Honor, given, not only the widespread publication of
25 the program securities bar date notice, but also the

1 repeated admonitions from the LBT trustees to their holders,
2 the plan administrator submits that the Midas Fund has
3 conducted -- has not conducted even a minimal amount of
4 diligence that it would have been required such that it
5 could have understood the difference between the two
6 proceedings and the application of the bar date order to its
7 asserted claim against LBHI. As such, the plan
8 administrator submits that the Midas Fund has not made a
9 sufficient showing for finding of excusable neglect and that
10 its claim should be expunged.

11 THE COURT: Okay. Thank you.

12 MR. GEOGHAN: Good morning, Your Honor. Daniel
13 Geoghan, Young Conaway Stargatt & Taylor, here for CF Midas.
14 Thank you for taking the time this morning, Your Honor.

15 Your Honor, there is -- as much as I was going to
16 start with a long discussion of the background of how we got
17 here on the excusable -- with regard to the excusable
18 neglect issue, I think there's one pressing issue before we
19 get there. This claim was allowed. This claim was allowed
20 by the debtor. On August 26th, 2011 -- and a copy of the
21 notice was provided to the Court in supplemental response,
22 this claim was allowed by the debtor.

23 THE COURT: Well, I saw your supplemental
24 response, and I understand that's your argument. I think
25 you're going to need to connect the dots on that argument,

1 because I think that there's a distinction to be drawn
2 between a notice and an objection to the claim based upon
3 late filing. If you want to argue waiver on the basis of a
4 notice, you can certainly make that argument, but you're
5 going to have to connect the dots in order to prevail on
6 that argument, because I'm not very sympathetic to it.

7 MR. GEOGHAN: Well, Your Honor, I think there are
8 some dots that can be connected, including section 502(j) of
9 the bankruptcy code, which provides that, once a claim is
10 allowed, it can -- that allowance can't be overturned
11 without cause, and that language, that section does not
12 provide that an order is required. That language simply
13 provides that once a claim is allowed.

14 The debtor clearly, by its own admission, has
15 allowed this claim, and I would differentiate, if I may,
16 from a claim that is listed in schedules as contingent,
17 unliquidated, or disputed, which could subsequently be
18 amended. I would differentiate that, because here, we had
19 an actual allowance of the claim subsequent to the
20 initiation of a contested matter by the debtor, and I do
21 think that that is a distinguishing factor here, and again,
22 referring the Court to 502(j). It does not require an order
23 saying that the claim was allowed. It simply requires that
24 the claim be allowed.

25 Excuse me one second. And I think that is very

1 important, not only in the equitable sense in that my
2 client's claim was allowed by an admission by the debtor and
3 not a simple admission by a notice provided to us that
4 doesn't say anything about reserving the right to come back
5 and challenge us again. Moreover, in an equitable and an
6 estoppel sense, my client can rely on that notice that their
7 claim is now allowed.

8 So I think that that fact differentiates my client
9 and the late-filed claim from other late-filed claims, which
10 is an important part of the process here, because it also
11 differentiates my client from the floodgates argument that
12 allowing this claim would have some tremendous effect on the
13 estate. This claim has already been reserved for. This
14 claim has already been accounted for.

15 It's been allowed. It's calculated, I'd imagine,
16 into the distribution. Now, obviously, those are the words
17 of counsel. There would need to be some form -- I mean, if
18 we were going to go farther down that road as to whether or
19 not this claim was actually calculated into the distribution
20 calculation, obviously, we'd have to take some kind of
21 discovery, but that's -- this is an initial hearing and not
22 an evidentiary hearing, and I appreciate that, Your Honor.

23 In addition to the 502(j) argument, Your Honor,
24 obviously, I would want to make a record on the issues of
25 excusable neglect. As was stated in the papers, Your Honor,

1 my client received, through its corporate representative,
2 numerous notices, and clearly, there was a misunderstanding
3 among people as to what was going on with the notices. It's
4 not clear that a copy of the bar date order was sent to my
5 client. I didn't see their name on any affidavit, but, as
6 counsel pointed out, there was publication. There are other
7 methods.

8 Also, I would point out, as to the fourth notice,
9 which we do not have a copy of, no evidence was presented
10 that my client -- that a copy of that was given to my
11 client, delivered, actual or constructively to my client.
12 So I don't know if anybody was aware of it, but certainly,
13 in October 2009, my client, through its representatives, was
14 taking steps to gather information related to its Lehman
15 claims, and it sought, through its representative.

16 This Bank of New York Mellon was the custody in
17 assets for CF Midas. So there would have likely been
18 notification to Bank of New York Mellon more than CF Midas,
19 and CF Midas would have communicated back to Bank of New
20 York Mellon directing them what to do, and so forth, and
21 Bank of New York Mellon would have taken action, and my
22 client sought to provide information to Bank of New York
23 Mellon, and, not knowing it needed to provide information to
24 Lehman, Bank of New York Mellon -- excuse me -- informed it
25 that it had provided insufficient information or there was a

1 problem with the information.

2 My client responded and said well, what
3 information could we need for a U.S. bankruptcy we hold
4 Dutch assets, and no response was given, and there fell the
5 problem, and, when my client realized they had a problem,
6 they had mistakenly not filed the claim, they immediately
7 took action to file that claim.

8 Your Honor, I think, importantly here, is again,
9 the fact that this claim is allowed, and why is that
10 important? Your Honor, there is no prejudice to the debtor
11 or the creditors. This claim has been allowed.

12 There is no prejudice with regard to
13 distributions. The amount of the claim has already been
14 calculated in and reserved for, I would imagine. There's no
15 interference with the claims review and reconciliation
16 process. The claim has been allowed.

17 I believe that CF Midas would take the position
18 that the length of delay is not dispositive of the issues
19 here, because the claim has been allowed. So, Your Honor, I
20 would say that there's been no suggestion that CF Midas
21 acted in bad faith at any time, so I don't believe that that
22 is an issue, and, as I stated earlier, the reason for the
23 delay -- CF Midas had received numerous notices. It was
24 confused about what expectations people that -- what it may
25 have had to file, if anything.

1 It believed it was dealing with a Dutch entity.
2 It was not aware that it had to file something in a chapter
3 11 case in the U.S., and it believed, because it was
4 continuing to receive those notices, even after this October
5 2009 issue, that whatever was going on was still in progress
6 and that it wasn't an issue it needed to address, and that,
7 I believe, stands for why that there is excusable neglect
8 here for a late-filed claim, if the Court believes that
9 that's where we need to -- that we need to consider that,
10 but again, I would come back to the fact that this is an
11 allowed claim, and 502(j) does not require that there have
12 been an order entered. This claim was allowed by the
13 debtors already. Thank you, Your Honor.

14 THE COURT: Does the debtor have a response?

15 MR. HORWITZ: Your Honor, I actually have to
16 apologize. I should have raised this initially so that the
17 Court could have had this in mind before listening to
18 counsel for Midas Fund's argument that the claim has been
19 allowed.

20 The order that approved the structured securities
21 valuation methodology process, the process of sending out
22 notices to creditors and resolving any disputes states on
23 page five -- I have a copy of this as well, which I can hand
24 up, if the Court wants to look at that --

25 THE COURT: I'd like to see it.

1 MR. HORWITZ: -- as I read from it.

2 THE COURT: Okay.

3 MR. HORWITZ: If the Court will turn to page five
4 in the center, third -- ordered -- paragraph down, ordered
5 that, "Notwithstanding anything herein, the debtors reserve
6 the right to object to the structured securities claims at
7 any time, including after such claims have been allowed for
8 the purposes of voting and distributions under the plan on
9 the grounds that such claims do not include a blocking
10 number, include invalid blocking number, are duplicative of
11 other claims, have been amended or superseded, or otherwise
12 do not comply with the provisions of the bar date order."

13 Your Honor, LBHI needed this language in this
14 order because it had not at the time that these
15 methodologies and these procedures were being negotiated and
16 approved -- it had not had the time to review all 1,700 late
17 claims that had been filed in these cases and couldn't be
18 sure that, when sending valuation notices, that it wouldn't
19 be sending them to claims that have all kinds of procedural
20 defects, and so, it needed to reserve its right to object to
21 them on those grounds, and the plan administrator submits
22 that those rights were properly reserved and that any
23 objection to the Midas Fund claim on the grounds that it was
24 filed after the bar date has not been waived.

25 THE COURT: It's true, however, that the notice

1 that went out to CF Midas Balanced Growth Fund and
2 presumably to other holders of structured securities claims
3 did not include a specific reference to a reservation of
4 rights to object to the amount of the claim that was set
5 forth in that notice, to which -- do you want to verify
6 that?

7 MR. HORWITZ: Yeah.

8 THE COURT: Because I took a look at that notice
9 in the supplement filed by CF Midas, which is ECF No. 21186,
10 and the notice is an attachment to that document, and the
11 argument made in the supplement is that there was, in
12 effect, allowance by notice without reserve.

13 MR. HORWITZ: Well, as to the reserve, Your Honor,
14 the plan administrator's reserving for all disputed claims,
15 as required by the plan in the amount filed or agreed to
16 with the parties or otherwise ordered by the Court. There's
17 no question about that. They certainly are doing, actually,
18 in excess of those amounts, to be conservative. So a
19 reserve is established for all disputed claims, because
20 that's what's required by the plan.

21 The notice that was sent to claimants and which is
22 attached to the Midas Fund's reply does reference the order
23 that was entered, approving the procedures for sending these
24 notices and only says that the determination of the amount
25 of the portion of this claim is allowed -- or this is the

1 allowed amount solely for purposes of voting and
2 distribution. I'm sorry. Not distributions. Oh, I'm
3 sorry. It says that the order provides for procedures for
4 the determination of allowed amounts for portions of -- for
5 the amount of portions or portions of claims based on
6 structured securities. So it doesn't actually say that the
7 claim is allowed. It's merely proposing an amount that
8 creditors had the opportunity to object to.

9 THE COURT: Well, it's obviously in the claimant's
10 interest to be characterizing this as a method for allowing
11 a claim, and I've already expressed my skepticism with
12 regard to that, but we do need at least to gather the
13 documents in order to determine if this aspect of the
14 argument has merit.

15 MR. HORWITZ: Well, Your Honor, the only other
16 part of the Midas Fund's argument that I could see having
17 any relevance is the estoppel argument, because the debtors
18 intentionally included this language in the order to
19 preserve their rights to maintain objections. Even if they
20 sent these notices, and it's not clear to me what damage the
21 Midas Fund's incurred by relying on this notice if the plan
22 administrator's objection was never withdrawn and
23 distributions had never been made, all indicating --
24 especially distributions not being made in the past two
25 distributions, indicating that the plan administrator

1 continues to treat this claim as a disputed claim.

2 The plan administrator also contacted counsel for
3 the Midas Funds months ago to schedule this contested
4 hearing. Every aspect of the plan administrator's behavior
5 has been consistent with the treatment of this claim as a
6 disputed claim, as that term is defined under the plan.

7 So it's not clear -- beyond the receipt of this
8 notice, it's not clear what actions the Midas Fund may have
9 taken in reliance on receipt of that notice that in any way
10 damages its position now. It's in the same position it
11 would have been in if we had had this hearing the very day
12 -- the day before it received this valuation notice.

13 THE COURT: Okay.

14 Anything more?

15 MR. HORWITZ: I just -- I'm sorry?

16 THE COURT: Anything more?

17 MR. HORWITZ: I just point out that the argument
18 that the Midas Fund received numerous notices only suggests
19 that the greater likelihood that the fund did actually
20 receive the fourth notice at least, which provided clear
21 notice of the bar date, but, even if the Midas Fund had just
22 read the third notice that it admits it received, it would
23 have had at least the tools necessary for a sophisticated
24 party to do the reasonable diligence to determine whether or
25 not the bar date order applied to its claims.

1 As for the prejudice argument, Your Honor, we've
2 discussed this before many times and in colloquy in these
3 hearings. The plan administrator does not object -- is not
4 objecting to late claims as a penny-saving exercise. It is
5 an exercise undertaken with the goal of treating all
6 creditors fairly and equally.

7 So, while the amount of the claim may not
8 completely throw off the distributions in these cases, the
9 point is, as I said, 25,000 Lehman Program securities claims
10 were filed in these cases. One thousand, seven hundred and
11 fifty claims were filed after the bar date. Only 70 of
12 those claims remain unresolved in one way or another.

13 For the rest of them, claimants have either had
14 their claims expunged, or they have voluntarily withdrawn
15 their claims, or the plan administrator has reached some
16 kind of a resolution that it's comfortable with in terms of
17 meeting its fiduciary duties to its creditors. The
18 prejudice here, as I've said before, is to all creditors in
19 these cases who either had their claims expunged because
20 they didn't comply with the bar date or took the steps
21 necessary to comply. That's all I have.

22 THE COURT: Okay.

23 Is there anything more?

24 MR. GEOGHAN: Just two brief points, Your Honor.
25 Again, Daniel Geoghan, Young Conaway.

1 Your Honor, first with regard to the point made
2 that, in August 2011, there was some 1,700 late-filed
3 claims, and they were -- and Lehman was not in a position to
4 go through all of them. Your Honor, in August 2011, we were
5 in active conversation with Weil -- excuse me, with Lehman's
6 counsel with regard to these claims. Our response had been
7 filed in July. This did not -- this was not us sitting by
8 the wayside and this notice showing up.

9 There was an active conversation, and, when it
10 showed up, we said, "Hey, wait a second. You've allowed the
11 claim now. Your objection is moot."

12 In regard to the notice, Your Honor aptly pointed
13 out that, one, it contains no reservation, and, two, it does
14 state that the claim is being allowed for voting and
15 distribution purposes. I don't think it could be any more
16 unambiguous.

17 While I appreciate that there is a reservation in
18 the order, as pointed out by counsel, the reservation in the
19 order to object to claims at a later time for allowed claims
20 on other grounds, I'm not convinced of, necessarily, its
21 validity. If I include a reservation in a proof of claim
22 stating I reserve the right to amend this claim and I change
23 the amount some place farther down the road, they still have
24 -- Lehman will still have the right to come back and object
25 to my amended claim as being untimely.

1 I think that 502(j), as I said, Your Honor, is
2 quite clear, and it does not require an order, and I have
3 gone back to the case law, and I have not found -- and
4 possibly, someone else will, but I have not found a case
5 that states an order is required under 502(j) for a claim to
6 be allowed, and I believe that that's --

7 THE COURT: But a timely proof of claim is
8 required for a claim to be allowed, or the claim has to be
9 scheduled. Neither is the case here. So how do you obtain
10 allowance by ambush, which is what you're really seeking to
11 argue?

12 MR. GEOGHAN: Well, I disagree wholeheartedly,
13 Your Honor. I don't believe this is allowance by ambush.
14 Aside from the fact that there have been numerous
15 conversations about this and email exchanges, it is --

16 THE COURT: Well, but here's the issue, at least
17 as I see it. In a more perfect world of drafting notices
18 and preserving all rights and defenses at the same time, the
19 notice would have included a conspicuous reservation of
20 rights. It did not.

21 The question really is whether that matters.
22 You're suggesting that this is a gotcha moment in which an
23 inconsistent position is taken, and, as a result, you're
24 able to say, "Aha, we have an allowed claim because of the
25 notice."

1 I seriously question that, particularly in a
2 setting in which the order dealing with determining the
3 amounts for voting purposes with respect to structured
4 securities claims represented one of those major, difficult,
5 unprecedented issues being addressed in the run-up to the
6 confirmation hearing, and, from an administrative
7 perspective, I'm sure looking back on this, debtor's counsel
8 would wish that you're not in the position to make this
9 argument, but the question is whether the argument
10 ultimately has legal merit, and that's where you're going to
11 need to address.

12 MR. GEOGHAN: Your Honor, and if I may just add
13 that I believe it does, obviously, have legal merit. Again,
14 we --

15 THE COURT: Well, it's a legal argument. Whether
16 or not it's --

17 MR. GEOGHAN: It's an argument.

18 THE COURT: Whether or not it's an argument that
19 leads you into the promised land of an allowed claim is
20 another question.

21 MR. GEOGHAN: Your Honor, as I stated there, we
22 were in conversation in the middle of this whole experience
23 between the claims objections, and they knew that the claim
24 objection was in place, and then, they allowed the claim.
25 Moreover, we went back to them immediately and said, "You've

1 allowed our claim. We believe your objection is moot."

2 Arguably, at any time thereafter, they could have
3 renewed their objection, put on a new objection. They could
4 have taken some steps to preserve rights. If that order --
5 if that notice is determined to act as an allowed claim as
6 of that date, arguably, they're beyond the statute of
7 limitations in 90024 to even seek at this point by cause to
8 reconsider the claim, and, Your Honor, if I may point the
9 Court to in re Tender Loving Care Health Services, Inc.

10 It's a Second Circuit case. The cite is 562 F.3d
11 158. It's not squarely on point, I'll admit, but it does
12 discuss the concept of a contested claim dispute that is
13 resolved with an allowed claim. In that case, it was
14 resolved by an agreement of the parties, a stipulated claim,
15 that then later a trustee came back to seek to object to,
16 because the trustee realized the claim was miscalculated,
17 and the Court, the Second Circuit held in that case that it
18 was beyond the statute of limitations.

19 It's not on point, but I don't think it's that far
20 off point, either, Your Honor. There, it's a contested
21 matter. Here, there was an allowed claim, and now, 16
22 months later, after there have been numerous discussions and
23 I begged them to put this on in September and October,
24 begged them. I filed a motion asking them to put this on,
25 and they refused. It's now coming back up and becoming an

1 issue.

2 Thank you, Your Honor, and I'm not sure what
3 Your Honor will do. I am guessing maybe we require more
4 briefing at this time, but I await the Court's direction.

5 THE COURT: Well, one of the things I'd like to
6 focus on -- and I think the pleadings as filed may require
7 some supplementation -- is the true impact on the claim of
8 CF Midas Balanced Growth Fund of the notice that we've been
9 discussing and the application, if any, of 502(j), which,
10 read literally, does not appear to directly apply to this
11 situation, since the language reads, quote, "A claim that
12 has been allowed or disallowed may be reconsidered for
13 cause."

14 That's just the first sentence, but
15 reconsideration speaks in terms of a deliberative process,
16 not an accidental one, and it is truly unclear to me as I
17 consider the argument that 502(j) applies at all, and it's
18 also unclear to me as a matter of the equities of the case a
19 phrase that appears also in 502(j), that it is in any
20 respect equitable for the debtor's position with respect to
21 a late-filed claim to be waived by virtue of a notice that
22 was issued on the strength of an order that included an
23 express reservation of rights, and so, I would be interested
24 in some relatively concise follow-up submissions by each of
25 the claimant and the debtor on a schedule that the two of

1 you can agree to.

2 This being the holidays, I'm not going to impose
3 an immediate schedule on this, but let's see if we can have
4 those submissions in anticipation of a hearing to take place
5 either in January or February of next year and deal with
6 this question. While that's pending, I'll reserve any
7 further comments with regard to the fundamental question of
8 excusable neglect, and we'll deal with that after addressing
9 this other question.

10 MR. GEOGHAN: Thank you, Your Honor.

11 THE COURT: Okay.

12 Now, we have Renata Thomas' claim.

13 MR. HORWITZ: Yes, Your Honor. This is the last
14 contested item on the agenda. This is the debtor's three
15 hundred and seventy-second omnibus objection to claims also
16 seeking to disallow claims filed after the bar date.
17 Ms. Thomas filed her claim on December 7th, 2012 and was the
18 sole claimant responding to this objection. I don't know if
19 she's present in the courtroom or on the phone today.

20 THE COURT: Is Renata Thomas on the telephone?

21 I believe she resides in the U.K.

22 MR. HORWITZ: I think that's correct.

23 THE COURT: Is Renata Thomas in the courtroom?

24 The answer to both questions is negative, so let's
25 proceed in her absence.

EXHIBIT B

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X	
	:
In re	:
	:
LEHMAN BROTHERS HOLDINGS INC., <i>et al.</i>,	:
	:
Debtors.	:
	:
	:
-----X	

**Chapter 11 Case No.
08-13555 (JMP)
(Jointly Administered)**

**ORDER PURSUANT TO SECTIONS 105(a) AND 502(b) OF THE
BANKRUPTCY CODE AND BANKRUPTCY RULE 9019 APPROVING
PROCEDURES FOR THE DETERMINATION OF THE ALLOWED
AMOUNT OF CLAIMS FILED BASED ON STRUCTURED SECURITIES
ISSUED OR GUARANTEED BY LEHMAN BROTHERS HOLDINGS INC.**

Upon the motion, dated June 29, 2011 (the “Motion”), of Lehman Brothers Holdings Inc. (“LBHI”) and its affiliated debtors in the above-referenced chapter 11 cases, as debtors and debtors-in-possession (collectively, the “Debtors” and, together with their non-debtor affiliates, “Lehman”) pursuant to sections 105(a) and 502(b) of the Bankruptcy Code and Bankruptcy Rule 9019, for approval of procedures determining the allowed amount of claims filed based on Structured Securities¹ issued or guaranteed by LBHI , all as more fully described in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334 and the Standing Order M-61 Referring to Bankruptcy Judges for the Southern District of New York Any and All Proceedings Under Title 11, dated July 10, 1984 (Ward, Acting C.J.); and consideration of the Motion and the relief

¹ Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Motion.

requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to (i) the U.S. Trustee; (ii) the attorneys for the Creditors' Committee; (iii) the Securities and Exchange Commission; (iv) the Internal Revenue Service; (v) the United States Attorney for the Southern District of New York; and (vi) all other parties entitled to notice in accordance with the procedures set forth in the second amended order entered on June 17, 2010 governing case management and administrative procedures for these cases [Docket No. 9635]; and a hearing (the "Hearing") having been held on August 9, 2011 to consider the relief requested in the Motion; and it being represented that the relief sought in the Motion is in the best interests of LBHI, its estate and creditors, and all parties in interest and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is

ORDERED that the Motion is granted to the extent set forth herein; and it is further

ORDERED that, pursuant to sections 105(a) and 502(b) of the Bankruptcy Code and Bankruptcy Rule 9019, the following procedures (the "Structured Securities Claim Determination Procedures") are approved for the determination of the allowed amount of the portion of the Structured Securities Claims included on Exhibit 1 attached hereto (the "Structured Securities Claims") that are based on Structured Securities for the purposes of voting and distributions under the Debtors' Plan (as such may be amended, modified or supplemented) (the "Plan");

- (a) Notice of Proposed Allowed Claim Amount: On or prior to August 15, 2011, the Debtors shall publish on www.lehman-docket.com a list of each Structured Security Claim and the corresponding the Proposed Allowed Claim Amount calculated using the Structured Securities Valuation Methodology and a copy of the statement of the Creditors' Committee in response to the Motion (the "Creditors' Committee Statement"). In addition, on or prior to August 24, 2011, the Debtors shall send to each holder of a Structured Securities Claim included on the official claims register ("Claims Register") on August 1, 2011 a notice substantially in the form annexed as Exhibit D to the Motion (the "Notice of Proposed Allowed Claim Amount"), which shall include a reference to a copy of the Creditors' Committee Statement located on the Debtors' website, by overnight mail delivery, fax or email (where available) to each Claimant (and any known attorneys for such Claimant that have appeared in these cases) at the address set forth on the Proof of Claim or relevant claim transfer notice, as applicable.
- (b) Claimant's Response to Proposed Allowed Claim Amount: If any holder of a Structured Securities Claim disputes the Proposed Allowed Claim Amount, then such holder must deliver a written response (a "Response"), so that such Response is actually received no later than 60 days after the delivery of the Notice of Proposed Allowed Claim Amount (the "Response Deadline") to LBHI at 1271 Avenue of the Americas, New York, NY 10020 (Attn: Holly Clack and Tina Pederson), with copies to Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York, 10153 (Attn: Alfredo R. Perez, Esq. and Mark Bernstein, Esq.) and Milbank, Tweed, Hadley & McCloy LLP, 1 Chase Manhattan Plaza, New York, New York 10005 (Attn: Evan R. Fleck, Esq. and Matthew Brod, Esq.); *provided* that the Debtors may in their reasonable discretion extend such Response Deadline with respect to any Structured Securities Claims. Any such Response must specify the grounds for such dispute. Notwithstanding the foregoing, to the extent any Claimant makes a reasonable request for information from the Debtors as to the claim filed by the Claimant, the Debtors agree to continue as they have been doing, to respond to such requests in good faith.
- (c) Claim Allowance. To the extent that any Claimant does not timely deliver a Response as set forth above on or prior to the Response Deadline, (1) such Claimant will be deemed to have consented to the Proposed Allowed Claim Amount for the portion of their claim based on Structured Securities for purposes of voting and

distributions under the Plan and (2) Epiq Bankruptcy Solutions, LLC, as the Court-appointed claims agent (the “Claims Agent”) shall be authorized to modify the Claims Register to reflect the Proposed Allowed Claim Amount and to reflect that for the portion of their claim based on Structured Securities such claim is deemed allowed in such amount for the purposes of voting and distributions under the Plan.

- (d) Claims ADR. If the Debtors and a Claimant are unable to consensually resolve any timely delivered Response, the Motion shall be deemed to be an objection to such claim and the claim shall be deemed to be a “Contested Claim” as such term is defined in the *Order Pursuant to Section 105 of the Bankruptcy Code, Bankruptcy Rule 9014, and General Order M-390 Authorizing the Debtors to Implement Claims Hearing Procedures and Alternative Dispute Resolution Procedures For Claims Against Debtors* [Docket No. 8474] (the “Claims ADR Order”), and the Debtors may commence the ADR Procedures or schedule a Merits Hearing (as such terms are defined in the Claims ADR Order) in accordance with the provisions of the Claims ADR Order.

and it is further

ORDERED that, pursuant to Bankruptcy Rule 9019, the compromise of the amounts of the portion of the Structured Securities Claims based on Structured Securities at the Proposed Allowed Claim Amounts, or such other amount agreed to between the Debtors and the applicable Claimant are approved; and it is further

ORDERED that, providing the Notice of Proposed Allowed Claim Amount to each Claimant (and any attorneys that have appeared in this case on behalf of such Claimants) at the address set forth on the Structured Securities Claims or at such other or additional address as Claimants have requested in writing is fair, reasonable and proper notice to the Claimants regarding the Debtor’s request to allow the Structured Securities Claims for the purposes of voting and distribution under the Plan; and it is further

ORDERED that the Debtors are authorized to take any and all steps necessary and appropriate to implement the Structured Securities Claim Determination Procedures; and it is further

ORDERED that the Structured Securities Claim Determination Procedures do not affect or modify the rights of any holder of a Structured Securities Claim under the terms of the Structured Securities or their rights to dispute or challenge the Proposed Allowed Claim Amount or to defend the previously asserted claim amount; and it is further

ORDERED that, notwithstanding anything herein, the Debtors reserve the right to object to the Structured Securities Claims at any time, including, after such claims have been allowed for the purposes of voting and distributions under the Plan, on the grounds that such claims do not include a blocking number or include an invalid blocking number, are duplicative of other claims, have been amended and superseded, or otherwise do not comply with the provisions of the Bar Date Order; and it is further

ORDERED, that the Debtors reserve the right to modify the Maximum Allowable Amount of each Structured Security or Proposed Allowed Claim Amounts in order to correct any manifest errors (including inconsistent application of these principles) in the application of the Structured Securities Valuation Methodologies; and it is further

ORDERED, that nothing contained herein shall preclude any party in interest from using the Proposed Allowed Claim Amount or such other amount at which a Structured Securities Claim may be deemed allowed pursuant to the Structured Securities Claim Valuation Procedures as the allowed amount of a Structured Securities Claim for

purposes of voting and distribution in connection with any alternative chapter 11 plan now pending before the Court or that may be subsequently filed in the Debtors' chapter 11 cases by any party in interest (it being understood that all parties reserve their rights with respect thereto); and it is further

ORDERED that within the (10) business days following the Response Deadline, the Debtors will file with the Court a notice identifying (i) each Structured Securities Claim and Structured Security, identified by the International Securities Identification Number, for which timely Responses were received by the Debtors and (ii) a list of Structured Securities Claims for which the Response Deadline has been extended; and it is further

ORDERED that notwithstanding anything contained herein, any portions of the Structured Securities Claims that are based on Structured Securities that are beneficially owned by an entity that is an affiliate of the Debtors shall not be subject to this Order or the procedures set forth herein in any respect and this Order shall not have any affect on the allowed amount of such portion of the Structured Securities Claims; and it is further

ORDERED that notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion; and it is further

ORDERED that this Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order and the relief granted herein.

Dated: New York, New York
August 10, 2011

s/ James M. Peck
Honorable James M. Peck
United States Bankruptcy Judge

EXHIBIT C

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X	
In re	: Chapter 11 Case No.
LEHMAN BROTHERS HOLDINGS INC., <i>et al.</i> ,	: 08-13555 (JMP)
Debtors.	: (Jointly Administered)
-----X	

**ORDER CONFIRMING MODIFIED THIRD AMENDED JOINT CHAPTER 11
PLAN OF LEHMAN BROTHERS HOLDINGS INC. AND ITS AFFILIATED DEBTORS**

Lehman Brothers Holdings Inc. and its affiliated debtors,¹ (collectively, the “Debtors”), each having proposed and filed the Third Amended Joint Chapter 11 Plan of Lehman Brothers Holdings Inc. and its Affiliated Debtors, dated August 31, 2011 (as subsequently supplemented, amended or modified, including by the Plan Supplement, the “Plan”)² and the Disclosure Statement for the Plan, dated August 31, 2011 (as amended, the “Disclosure Statement”); and the Court having entered the *Amended Order (I) Approving the Proposed Disclosure Statement and the Form and Manner of Notice of the Disclosure Statement Hearing, (II) Establishing Solicitation and Voting Procedures, (III) Scheduling a Confirmation Hearing, and (IV) Establishing Notice and Objection Procedures for Confirmation of the Debtors’ Joint Chapter 11 Plan*, dated September 1, 2011 [ECF No. 19631] (the “Disclosure Statement Order”);

¹ The Debtors are: Lehman Brothers Holdings Inc., LB 745 LLC, PAMI Statler Arms LLC, Lehman Brothers Commodity Services Inc., Lehman Brothers Special Financing Inc., Lehman Brothers OTC Derivatives Inc., Lehman Brothers Derivatives Products Inc., Lehman Commercial Paper Inc., Lehman Brothers Commercial Corporation, Lehman Brothers Financial Products, Inc., Lehman Scottish Finance L.P., CES Aviation LLC, CES Aviation V LLC, CES Aviation IX LLC, East Dover Limited, Luxembourg Residential Properties Loan Finance S.a.r.l., BNC Mortgage LLC, Structured Asset Securities Corporation, LB Rose Ranch LLC, LB 2080 Kalakaua Owners LLC, Merit LLC, LB Somerset LLC, and LB Preferred Somerset LLC.

² Unless otherwise defined herein, capitalized terms used herein shall have the meanings ascribed to such terms in the Plan, a copy of which is annexed hereto as Exhibit A. Any term used in the Plan or this Confirmation Order that is not defined in the Plan or this Confirmation Order, but that is defined in title 11 of the United States Code (the “Bankruptcy Code”) or the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) shall have the meaning ascribed to that term in the Bankruptcy Code or the Bankruptcy Rules, as applicable.

and the Disclosure Statement, the Plan and the Solicitation Packages (as defined below) having been distributed to holders of Claims entitled to vote on the Plan as provided in the Disclosure Statement Order; and due notice of (i) entry of the Disclosure Statement Order, (ii) the hearing on confirmation of the Plan (the “Confirmation Hearing”), and (iii) the deadline for voting on, and/or objecting to, the Plan having been provided to holders of Claims against and Equity Interests in the Debtors and other parties in interest in accordance with the Disclosure Statement Order, the Bankruptcy Code and the Bankruptcy Rules, as established by the affidavits of service, mailing, and/or publication filed with the Court; and the following documents having been filed in support of or in connection with the confirmation of the Plan:

- (i) Affidavit of Solicitation Mailing [ECF No. 20882] (the “Notice Affidavit”);
- (ii) Affidavits of Publication of Notice of (a) Approval of the Disclosure Statement, (b) Establishing the Record Date, (c) Hearing on Confirmation of the Plan and Procedures for Objecting to Confirmation of the Plan and (d) Procedures and Deadline for Voting on Plan [ECF No. 21695] (the “Publication Affidavits”);
- (iii) Declaration of Jane Sullivan on Behalf of Epiq Bankruptcy Solutions, LLC Regarding Voting and Tabulation of Ballots Cast on Debtors’ Third Amended Joint Chapter 11 Plan of Lehman Brothers Holdings Inc. and its Affiliated Debtors, dated as of November 29, 2011 [ECF No. 22743] (as supplemented on December 5, 2011 [ECF No. 22972], the “Voting Certification”);
- (iv) the Plan Supplement, dated October 25, 2011 and amendments thereto (the “Plan Supplement”) [ECF Nos. 21254, 21665, 22156, 22590, 22742, 22876, 22975 and 22980];
- (v) the Debtors’ Memorandum of Law Pursuant to Section 1123(b)(3)(A) of the Bankruptcy Code and Rule 9019 of the Federal Rules of Bankruptcy Procedure, In Support

of Plan Settlements, dated November 29, 2011 (the “Debtors’ Memorandum of Law In Support of the Global Settlement”) [ECF No. 22749];

(vi) the Debtors’ Memorandum of Law in Support of Confirmation of Third Amended Joint Chapter 11 Plan of Lehman Brothers Holdings Inc. and its Affiliated Debtors, dated November 29, 2011 (the “Debtors’ Memorandum of Law In Support of Confirmation”) [ECF No. 22747];

(vii) the Declaration of John K. Suckow in Support of Confirmation of Third Amended Joint Chapter 11 Plan of Lehman Brothers Holdings Inc. and its Affiliated Debtors, dated November 29, 2011 [ECF No. 22759] (the “Suckow Declaration”);

(vii) the Declaration of Daniel J. Ehrmann in Support of Confirmation of Third Amended Joint Chapter 11 Plan of Lehman Brothers Holdings Inc. and its Affiliated Debtors, dated November 29, 2011 [ECF No. 22760] (the “Ehrmann Declaration”);

(ix) the Declaration of Steven J. Cohn in Support of Confirmation of Third Amended Joint Chapter 11 Plan of Lehman Brothers Holdings Inc. and its Affiliated Debtors, dated November 29, 2011 [ECF No. 22761] (the “Cohn Declaration”);

(x) the Debtors’ Response to Objections to Confirmation, dated November 29, 2011 (the “Debtors’ Response”) [ECF No. 22751];

(xi) the Statement of Official Committee of Unsecured Creditors (I) In Support of Third Amended Joint Chapter 11 Plan of Lehman Brothers Holdings Inc. and its Affiliated Debtors and (II) In Response to Objections to Such Plan, dated as of November 29, 2011 [ECF No. 22773];

(xii) the statements of numerous other Creditors in support of confirmation of the Plan; and

(xiii) objections to confirmation of the Plan by certain parties;

and each of the objections having been resolved, overruled, or withdrawn at or prior to the Confirmation Hearing; and the Court having held the Confirmation Hearing commencing on December 6, 2011; and after full consideration of the record of the Chapter 11 Cases, including, without limitation, motions, applications and orders in the Chapter 11 Cases, the foregoing documents, and the evidence admitted and arguments of counsel made at the Confirmation Hearing; and after due deliberation and good and sufficient cause appearing therefor, it is hereby DETERMINED, FOUND, ADJUDGED, AND DECREED:

FINDINGS OF FACT

A. Findings of Fact. The findings set forth herein and in the record of the Confirmation Hearing constitute the Court's findings of fact pursuant to Rule 52 of the Federal Rules of Civil Procedure, as made applicable herein by Bankruptcy Rules 7052 and 9014. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such.

B. Separate Chapter 11 Plans for Each Debtor. Unless otherwise expressly contemplated herein, any statement regarding the Plan or the satisfaction of any requirements by the Plan or the Debtors, or approval of Plan, shall be deemed to apply separately to the chapter 11 plan of each of the Debtors. Unless otherwise expressly contemplated herein, any statements included herein referring to actions taken by the Debtors shall be deemed to mean actions taken by each Debtor in connection with its Plan.

C. Exclusive Jurisdiction; Venue; Core Proceeding (28 U.S.C. §§ 157(b)(2), 1334(a)). This Court has jurisdiction over the Chapter 11 Cases pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper under 28 U.S.C. §§ 1408 and 1409. Confirmation of the Plan is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(L), and this Court has exclusive jurisdiction

to determine whether the Plan complies with the applicable provisions of the Bankruptcy Code and should be confirmed.

D. Commencement of Chapter 11 Cases. Commencing on September 15, 2008 and periodically thereafter (as applicable, the “Commencement Date”), LBHI and certain of its Affiliates commenced with this Court voluntary cases under chapter 11 of the Bankruptcy Code. The Debtors’ Chapter 11 Cases have been consolidated for procedural purposes only and are being jointly administered pursuant to Rule 1015(b) of the Bankruptcy Rules. The Debtors are authorized to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

E. Judicial Notice. The Court takes judicial notice of the docket of the Chapter 11 Cases maintained by the Clerk of the Court and/or its duly-appointed agent, including, without limitation, all pleadings and other documents filed, all orders entered, and the evidence and arguments made, proffered, or adduced at the hearings held before the Court during the pendency of the Chapter 11 Cases, including, but not limited to, the hearing to consider the adequacy of the Disclosure Statement.

F. Burden of Proof. The Debtors have met their burden of proving the elements of section 1129(a) and (b) of the Bankruptcy Code by a preponderance of the evidence.

G. Transmittal and Mailing of Materials; Notice. On, September 1, 2011, the Court entered the Disclosure Statement Order, which, among others things, approved the Disclosure Statement, finding the Disclosure Statement contained “adequate information” under section 1125 of the Bankruptcy Code, established the procedures for the solicitation, voting, and tabulation of votes on the Plan, and approved the form of ballots and master ballots (the “Ballots”). The Disclosure Statement, the Plan, the Ballots, the Disclosure Statement Order, the notice of the scheduling of the Confirmation Hearing (the “Confirmation Hearing Notice”), and a

letter from the Creditors' Committee in support of the Plan (translated into five languages) (such documents, collectively, the "Solicitation Package"), were transmitted and served in compliance with the Disclosure Statement Order, the Bankruptcy Rules, and the Local Bankruptcy Rules for the Southern District of New York (the "Local Rules"), and such transmittal and service, as evidenced by the Notice Affidavit was adequate and sufficient. The Debtors' publication of the Confirmation Hearing Notice in *The New York Times*, *The Wall Street Journal*, *the Financial Times*, *The Times of London*, *the Sydney Morning Herald*, *the Tribune De Geneve*, *the DE Telegraaf*, *the Apple Daily*, *the Tages Anzeiger*, *the Luxemburger Wort*, *the Corriere Del Ticino*, *the Frankfurter Allgemeine Zeitung*, and *Yomiuri Shimbun*, as set forth in the Publication Affidavits (i) complied with the Disclosure Statement Order, (ii) was adequate and sufficient under the circumstances of these Chapter 11 Cases, (iii) provided adequate notice of the deadline for objecting to confirmation of the Plan, and the date, time and location of the Confirmation Hearing, and (iv) provided due process to all parties in interest in these Chapter 11 Cases. No other or further notice is required.

H. Voting. Votes on the Plan were solicited after disclosure of "adequate information" as defined in section 1125 of the Bankruptcy Code. As described in the Voting Certification, votes to accept or reject the Plan have been solicited and tabulated fairly, in good faith, and in a manner consistent with the Bankruptcy Code, the Bankruptcy Rules and the Disclosure Statement Order.

I. Plan Supplement. On October 25, 2011, the Debtors filed the Plan Supplement, which included certain documents and agreements contemplated by the Plan, including the forms of revised certificates of incorporation and by-laws, or similar documents, for each Debtor other than Lehman Scottish Finance L.P. and East Dover Limited; the schedules of executory contracts and unexpired leases to be assumed pursuant to the Plan; the Plan Trust

Agreement; the form of Debtor Allocation Agreement; copies of settlement agreements that are incorporated into the Plan pursuant to sections 6.5(b)(viii) and (j) of the Plan; an amendment to the Plan; an updated recovery and liquidation analysis for SASCO and LBCC; a schedule of Claims by Debtor-Controlled Entities against the Debtors; a reconciliation of the ownership of certain assets as between certain Debtors; and a list of Debtor-Controlled Entities that may be dissolved or merged in accordance with the Plan. The Plan Supplement was amended on October 25, 2011, November 4, 2011, November 15, 2011, November 22, 2011, November 29, 2011, December 2, 2011 and December 5, 2011. The Plan Supplement complies with the provisions of section 15.5 of the Plan.

J. Modifications to the Plan. The Plan, and documents, amendments or supplements to the Plan included in the Plan Supplement and any amendments thereto, as modified by the Modified Third Amended Joint Chapter 11 Plan of Lehman Brothers Holdings Inc. and its Affiliated Debtors, filed on November 29, 2011 and December 5, 2011 (the “Plan Modifications”), shall constitute the Plan.

K. Compliance with Bankruptcy Code (11 U.S.C. § 1129(a)(1)). The Plan complies with the applicable provisions of the Bankruptcy Code, thereby satisfying section 1129(a)(1) of the Bankruptcy Code.

L. Compliance with Bankruptcy Rule 3016(a). The Plan is dated and identifies the entities submitting the Plan as proponents, thereby satisfying Bankruptcy Rule 3016(a).

M. Proper Classification (11 U.S.C. §§ 1122, 1123(a)(1)). In addition to Administrative Expense Claims and Priority Tax Claims which need not be designated, the Plan designates 16 Classes of Claims against LBHI, 8 Classes of Claims against each of LCPI and LBSF, 7 Classes of Claims against each of LBCS, LBCC and LOTC and 5 Classes of Claims

against each of the other Debtors, and one Class of Equity Interests for each Debtor. As required by section 1122(a) of the Bankruptcy Code, the Claims and Equity Interests placed in each Class are substantially similar to other Claims and Equity Interests, as the case may be, in each such Class.

(i) Justification for Separate Classification. Valid business, factual, and legal reasons exist for separately classifying the various Classes of Claims and Equity Interests created under the Plan. The classification takes into account the nature of Claims and the differing legal rights of the holders of such Claims. The nature of Claims and legal rights of the holders differ for (i) Claims asserted by Affiliates and third-party Creditors, (ii) direct Claims against a Debtor and Guarantee Claims, (iii) Claims subject to contractual or statutory subordination, and (iv) Claims entitled to be treated as senior obligations. In addition, the classification of Claims pursuant to the Plan takes into account the nature and risks of certain Claims in respect of the Plan Issues. These issues include: whether the equitable doctrine of substantive consolidation may be applied to the Debtors and their Affiliates; the characterization of the intercompany balances owed to LBHI by Subsidiary Debtors; the Allowed amounts of Affiliate Claims; the ownership and rights of various Debtors and their Affiliates with respect to certain assets; the allocation of costs and expenses of administration among the Debtors; and the post-effective date governance of the Debtors (collectively, the “Plan Issues”). The relative risks and benefits of potential litigation of the Plan Issues is a reasonable basis for the Plan to provide for separate classification of such Claims. If the Debtors and their Affiliates were substantively consolidated, generally, all Claims based on LBHI’s guarantees of the obligations of its Affiliates and all Claims of Affiliates would be disregarded. The different nature of Claims, the legal rights of the holders of Claims and the recovery entitlements of Claims in the separate Classes, are a reasonable basis for separately classifying Claims.

(ii) Contractual Subordination Agreements. The contractual terms of the indentures pursuant to which LBHI issued Subordinated Notes provide that upon the bankruptcy of LBHI, no payments will be made to holders of the Subordinated Notes until all obligations of LBHI designated as “senior” in the indentures have been satisfied in full. The Plan gives effect to these provisions by separately classifying Claims based on their respective priority in relation to the Subordinated Notes and the entitlement to receive amounts that would otherwise have been distributed to holders of Claims based on the Subordinated Notes.

(iii) Convenience Claims and Convenience Guarantee Claims (11 U.S.C. § 1122(b)). The definition and classification of Convenience Claims and Convenience Guarantee Claims are reasonable and necessary for administrative convenience. The inclusion of convenience Classes in the Plans of LBHI, LBCCS, LBCC, LBSF, LCPI and LOTC will permit those Debtors to make a single Distribution on account of Convenience Claims and Convenience Guarantee Claims against such Debtors and avoid the administrative burden of tracking the transfers of these Claims, repeating the calculations of the Distributions to holders of such Claims, providing notices to holders of such Claims and preparing and mailing or wiring Distributions to holders of such Claims on each Distribution Date. The definitions of Convenience Claims and Convenience Guarantee Claims, including the exclusions of Claims based on public debt securities issued or guaranteed by LBHI or a Claim filed by a nominee on behalf of one or more beneficial holders of Claims, is reasonable and necessary for administrative convenience.

N. Specified Unimpaired Classes (11 U.S.C. § 1123(a)(2)). The Plan does not include any Classes of Claims that are unimpaired under the Plan. The Plan satisfies section 1123(a)(2) of the Bankruptcy Code.

O. Specified Treatment of Impaired Classes (11 U.S.C. § 1123(a)(3)). All Classes of Claims are impaired under the Plan. Articles III, IV and V of the Plan specify the treatment for each Class of Claims, thereby satisfying section 1123(a)(3) of the Bankruptcy Code.

P. No Discrimination (11 U.S.C. § 1123(a)(4)). The Plan provides for the same treatment by the Debtors for each Claim or Equity Interest in each respective Class unless the holder of a particular Claim or Equity Interest has agreed to a less favorable treatment of such Claim or Equity Interest, thereby satisfying section 1123(a)(4) of the Bankruptcy Code.

Q. Implementation of Plan (11 U.S.C. § 1123(a)(5)). The Plan, including the various documents and agreements set forth in the Exhibits to the Plan and the Plan Supplement, provide adequate and proper means for the Plan's implementation, including (i) the appointment of a Plan Administrator with the duties and responsibilities set forth in Section 6.1(b) of the Plan to administer and maximize the value of the Debtors' estates; (ii) the Global Settlement and Bilateral Settlements incorporated into the Plan; (iii) the provisions governing Distributions under the Plan; (iv) the procedures governing the allowance of Claims under the Plan; (v) the dissolution or wind down of a Debtor or Debtor-Controlled Entity in accordance with applicable law and consistent with the implementation of the Plan; and (vi) the liquidating trust vehicles that may be created under the Plan, thereby satisfying section 1123(a)(5) of the Bankruptcy Code. *See* Plan, Arts. VI-X.

R. Nonvoting Equity Securities (11 U.S.C. § 1123(a)(6)). To the extent applicable, each Debtor's certificate of incorporation, bylaws or limited liability company agreement, as applicable, shall be amended as of the Effective Date to contain a provision that prohibits the issuance of nonvoting equity securities prohibited by section 1123(a)(6), thereby satisfying section 1123(a)(6) of the Bankruptcy Code.

S. Selection of Officers, Directors, or Trustees (11 U.S.C. § 1123(a)(7)).

Sections 7.2, 7.3 and 7.4 of the Plan provide for the manner in which the boards of directors of each of the Debtors will be appointed following the Effective Date. Such provisions are consistent with the interests of Creditors, equity security holders, and public policy, thereby satisfying section 1123(a)(7) of the Bankruptcy Code. Prior to the Confirmation Hearing, the Debtors have filed with the Court a list of the persons selected to serve on the board of directors of LBHI following the Effective Date [ECF No. 22931].

T. Additional Plan Provisions (11 U.S.C. § 1123(b)). The provisions of the Plan are appropriate and not inconsistent with the applicable provisions of the Bankruptcy Code, thereby satisfying section 1123(b) of the Bankruptcy Code. The failure to specifically address a provision of the Bankruptcy Code in this Confirmation Order shall not diminish or impair the effectiveness of this Confirmation Order.

U. Assumption and Rejection (11 U.S.C. § 1123(b)(2)). Article XI of the Plan and the Plan Supplement (as amended) provide for the rejection of executory contracts and unexpired leases of the Debtors as of the Effective Date, except for any executory contract or unexpired lease (i) that has been assumed pursuant to an order of the Bankruptcy Court prior to the Effective Date, (ii) as to which a motion for approval of the assumption of such executory contract or unexpired lease has been filed and served prior to the Confirmation Date or (iii) that is specifically designated as an executory contract or unexpired lease to be assumed in the Plan Supplement, and any amendment thereto. Pursuant to the notices sent out by the Debtors to each party to a contract proposed to be assumed by the Debtors (each, a “Cure Notice”), the Debtors provided notice of any defaults to be cured with respect to each contract to be assumed by the Debtors. Numerous parties filed objections to the assumption of their contracts; a hearing before the Court on the assumption of such contracts has been scheduled for February 14, 2012 at 10:00

a.m. In addition, the Debtors have agreed with certain other parties to defer without date disputes regarding whether a particular contract is executory and, if executory, whether (i) the obligations thereunder are severable and (ii) whether the contract will be assumed or rejected. The Plan is consistent with section 1123(b)(2) of the Bankruptcy Code.

V. Settlement/Retention of Claims or Interests (11 U.S.C. § 1123(b)(3)). The Plan includes a settlement and compromise of the Plan Issues that is designed to achieve a fair and efficient resolution of the Chapter 11 Cases. Pursuant to Section 1123(b)(3) of the Bankruptcy Code and Bankruptcy Rule 9019, the Plan constitutes a settlement of potential litigation of the Plan Issues. The terms of the Plan reflect an integrated and comprehensive settlement that resolves the various Plan Issues through (i) the Plan Adjustment; (ii) Distributions to LBHI on only 80% of the portion of its Claims against the Subsidiary Debtors relating to intercompany funding; (iii) the reallocation of the first \$100 million distributed to LBHI on account of its Claims against LBSF and LCPI to holders of General Unsecured Claims in LBSF Class 4A and LCPI Class 4A; (iv) the Distribution to holders of General Unsecured Claims in LBSF Class 4A and Affiliate Claims in LBSF Class 5C of the first \$70 million recovered by LBSF on account of its assets in excess of \$14.156 billion; (v) the Allowed amount of Claims asserted by Designated Entities; (vi) the allowance of LBT's intercompany Claim against LBHI in the amount of \$34.548 billion; (vii) the allocation of costs and expenses incurred in the administration of the estates pursuant to the Debtor Allocation Agreement; and (viii) the principles included in the Structured Securities Valuation Methodologies (the "Global Settlement"). Each component of the Global Settlement is an integral part thereof. The Plan was accepted by Creditors holding 95.00% of voting Claims in the aggregate amount of approximately \$400 billion. The Creditors supporting the Global Settlement include the

Creditors' Committee, the Ad Hoc Group,³ certain of the Non-Con Plan Proponents⁴ and certain Foreign Affiliates (as defined below), each of which is a sophisticated party and represented by counsel that is recognized as being knowledgeable and experienced in the field of complex chapter 11 cases. The Global Settlement is a result of good faith arms'-length negotiations. The Global Settlement is consistent with section 1123(b)(3) of the Bankruptcy Code.

(i) Substantive Consolidation.

a. The Debtors and the Creditors' Committee have conducted a thorough factual and legal analysis to determine whether the substantive consolidation of the Debtors and their Affiliates is appropriate. The facts and analysis set forth in the Disclosure Statement, the Debtors' Memorandum of Law In Support of the Global Settlement, and the Suckow Declaration, reflect that there are facts that support and facts that militate against the substantive consolidation of the Debtors and their Affiliates based upon the law in this jurisdiction. There is a possibility that if litigated to final judgment, a court may find that the substantive consolidation of the Debtors and their affiliates, including their Foreign Affiliates, is appropriate.

b. The Global Settlement gives due consideration to the strengths and weaknesses of potential arguments that have been made for and against substantive

³ The Ad Hoc Group consists of California Public Employees' Retirement System, Canyon Capital Advisors LLC, City of Costa Mesa, City of Fremont, County of San Mateo, Fiduciary Counselors Inc., Fir Tree, Inc., Gruss Asset Management, L.P., Owl Creek Asset Management, L.P., on behalf of the funds it manages or advises, Paulson & Co. Inc., Perry Capital LLC, on behalf of one or more investment funds for which it or an affiliate acts as investment advisor or general partner, Taconic Capital Advisors L.P. and Vallejo Sanitation and Flood Control District.

⁴ The Non-Con Plan Proponents are Angelo, Gordon & Co., L.P., Contrarian Capital Management, LLC, Credit Agricole CIB, Credit Suisse International, Cyrus Capital Partners, LP, D. E. Shaw Composite Portfolios, L.L.C., D. E. Shaw Oculus Portfolios, L.L.C., Deutsche Bank AG, Goldentree Asset Management, LP, Goldman Sachs Bank USA (successor by merger to Goldman Sachs Capital Markets, L.P.), Goldman Sachs International, Hayman Capital Management, LP, Knighthood Capital Management, LLC, Mason Capital Management LLC, Morgan Stanley & Co. International plc., Morgan Stanley Capital Services Inc., Mount Kellett Capital Management, Oaktree Capital Management, L.P., The Royal Bank of Scotland plc, Serengeti Asset Management LP, Silver Point Capital, L.P., State Street Bank and Trust Company, and York Capital Management Global Advisors, LLC.

consolidation. Litigation regarding substantive consolidation of the Debtors would require vast amounts of discovery and investigation into the operations of Lehman prior to the Commencement Date, would be extraordinarily complex and costly for all parties involved, and would significantly delay Distributions to all Creditors.

c. The Plan Adjustment, which is a key element of the Global Settlement, ensures that recoveries to all Creditors are within the range of possible litigated outcomes and fall between the estimated Distributions to each Class if the Participating Debtors and their affiliates were substantively consolidated or if the Participating Debtors had strict non-consolidation plans.

(ii) Characterization of Intercompany Claims.

a. Prior to the Commencement Date, the Debtors and their Affiliates entered into tens of thousands of transactions daily involving billions of dollars. The transactions were recorded on Lehman's general ledger. The Debtors reviewed a sampling of the transactions between Debtors and considered the relevant legal standards for the recharacterization of indebtedness as equity interests. Based on the facts and analysis set forth in the Disclosure Statement, the Debtors' Memorandum of Law In Support of the Global Settlement, and the Cohn Declaration, there is a risk that certain portions of the intercompany balances owed to LBHI by the Subsidiary Debtors could be recharacterized as equity contributions if such matter were litigated to final judgment.

b. The Global Settlement gives due consideration to the strengths and weaknesses of potential arguments for and against the recharacterization of intercompany balances. Litigation regarding characterization of a vast number of intercompany balances would be extremely time consuming and expensive, and would delay Distributions to all Creditors.

c. By providing that the Distribution that LBHI will receive is based only on a portion of its Claims against the Subsidiary Debtors, the Plan provides recoveries to all Creditors that are within the range of possible litigated outcomes.

(iii) Amount of Intercompany Claims/ Ownership of Assets.

a. As a result of the large number of intercompany transactions among the Debtors and their Affiliates prior to the Commencement Date, there are many intercompany receivables and payables between Debtors. The Debtors and their advisors have reviewed some of the transactions and the transfer of assets among the Debtors and determined that it is in the best interests of all Debtors and their Creditors to agree to the intercompany Claims among the parties in the amounts set forth on the books and records, subject to certain adjustments, and not to pursue any avoidance actions.

b. The Plan establishes the Allowed amount of Claims among the Debtors and Claims of the Debtor-Controlled Entities against the Debtors and provides that all other Claims or causes of action are irrevocably released and waived. The terms of the Global Settlement give due consideration to the strengths and weaknesses of potential arguments regarding the Claims among such entities and the ownership of assets. Litigation regarding the amount or validity of thousands of intercompany balances and ownership of the Debtors' assets would be extremely time consuming and expensive, and would delay Distributions to all Creditors.

c. The settlement of all Claims among the Debtors in the amounts set forth on the books and records, subject to certain adjustments, is within the range of possible litigated outcomes.

(iv) Settlements with Foreign Affiliates and Certain Third-Party Creditors Incorporated in the Plan.

a. Lehman was a worldwide enterprise prior to the Commencement Date which included affiliates organized and doing business in many international jurisdictions. Following the Commencement Date, insolvency or liquidation proceedings were commenced with respect to 80 of the Foreign Affiliates of the Debtors in 16 jurisdictions. Due to the manner in which Lehman operated prior to the Commencement Date, upon the fracturing of the Lehman enterprise, the Foreign Affiliates and the Debtors had significant Claims against each other.

b. The Debtors have entered into settlement agreements with Lehman Brothers Bankhaus AG, Lehman Brothers Treasury Co. B.V., Lehman Brothers Securities N.V., Lehman Brothers International (Europe) and the Lehman UK Entities, Lehman Brothers (Luxembourg) Equity Finance S.A. (*en faillite*), Lehman Brothers (Luxembourg) Equity Finance S.A. (in liquidation), the Hong Kong Lehman Entities In Liquidation, the Lehman Singapore Entities, the Lehman Japan Entities (collectively, the “Foreign Affiliates”), Deutsche Bundesbank (“Bundesbank”), Bundesverband deutscher Banken E.V. (“BdB”), Entschädigungseinrichtung deutscher Banken GmbH (“EdB”), and Deutsche Bank and certain holders of participations in Claim Nos. 59006 and 58233 (collectively, the “Bilateral Settlements”). Each of the Bilateral Settlements with the Foreign Affiliates, BdB, EdB and Bundesbank takes into account the various Plan Issues, specifically substantive consolidation, and the validity and enforceability of asserted Guarantee Claims. Many of the Foreign Affiliates asserted Guarantee Claims against LBHI based upon certain corporate resolutions, pursuant to which LBHI purportedly guaranteed the obligations of certain of its Affiliates. LBHI has reviewed such Claims and has challenged the enforceability of such Claims.

c. The Bilateral Settlements, other than the agreement with Deutsche Bank, take into account the fact that Claims of the affiliates and Guarantee Claims would be disregarded if the Debtors and its affiliates were substantively consolidated and the risk that certain Guarantee Claims may be unenforceable against LBHI, and, therefore, allow the Claims of the Foreign Affiliates in amounts substantially less than the asserted amounts.

d. The Bilateral Settlement with Deutsche Bank takes into account the relative strengths of the arguments regarding the classification of certain Claims and the interpretation of the applicable agreements in which such Claims were settled and Allowed.

e. The Bilateral Settlements resulted in a reduction of Claims asserted against the Debtors by more than \$295 billion.

f. Each of the Bilateral Settlements was negotiated in good faith and at arm's length.

W. Debtors' Compliance with Bankruptcy Code (11 U.S.C. § 1129(a)(2)).

The Debtors have complied with the applicable provisions of the Bankruptcy Code, except as otherwise provided or permitted by orders of the Court. The Debtors have complied with the applicable provisions of the Bankruptcy Code, including sections 1125 and 1126, the Bankruptcy Rules, and the Disclosure Statement Order in transmitting the Solicitation Packages and related documents and notices and in soliciting and tabulating votes on the Plan.

X. Plan Proposed in Good Faith (11 U.S.C. § 1129(a)(3)). The Debtors have proposed the Plan in good faith and not by any means forbidden by law, thereby satisfying section 1129(a)(3) of the Bankruptcy Code. The Debtors' good faith is evident from the facts and record of these Chapter 11 Cases, the Disclosure Statement and the hearing thereon, and the record of the Confirmation Hearing and other proceedings held in these Chapter 11 Cases. The Plan was proposed with the legitimate and honest purpose of maximizing the value of the

Debtors' estates and effectuating an orderly liquidation of the Debtors. The Plan was negotiated at arm's length among representatives of the Debtors, the Creditors' Committee, the Ad Hoc Group, certain of the Non-Con Plan Proponents, certain holders of notes issued by LBT and guaranteed by LBHI, various Foreign Affiliates and other Creditors. More than 150 parties that asserted approximately \$450 billion in Claims have entered into Plan Support Agreements in connection with the Plan.

Y. Payments for Services or Costs and Expenses (11 U.S.C. § 1129(a)(4)).

All payments made or to be made by any of the Debtors for services or for costs and expenses in connection with the Chapter 11 Cases, or in connection with the Plan and incident to the Chapter 11 Cases, have been approved by, or are subject to the approval of, the Court, thereby satisfying section 1129(a)(4) of the Bankruptcy Code.

Z. Directors, Officers, and Insiders (11 U.S.C. § 1129(a)(5)). The Debtors have complied with section 1129(a)(5) of the Bankruptcy Code. Sections 7.2 and 7.3 of the Plan provide for the manner in which the board of directors of each of the Debtors will be selected. The Debtors have filed with the Court a list of the directors selected by the Director Selection Committee to serve on the board of directors of LBHI following the Effective Date. The appointment to such offices of such persons is consistent with the interests of holders of Claims against and Equity Interests in the Debtors and with public policy. The Plan, therefore, complies with section 1129(a)(5) of the Bankruptcy Code.

AA. No Rate Changes (11 U.S.C. § 1129(a)(6)). The Plan does not provide for any rate changes by the Debtors, and, therefore, section 1129(a)(6) of the Bankruptcy Code is inapplicable in these Chapter 11 Cases.

BB. Best Interests of Creditors (11 U.S.C. § 1129(a)(7)). The Plan satisfies section 1129(a)(7) of the Bankruptcy Code. The Disclosure Statement, the Plan Supplement, the

Cohn Declaration and the other evidence proffered or adduced at the Confirmation Hearing (i) are persuasive and credible, (ii) have not been controverted by other evidence, and (iii) establish that each holder of an impaired Claim or Equity Interest in each Debtor will receive or retain under the Plan, on account of such Claim or Equity Interest, property of a value, as of the Effective Date, that is not less than the amount such holder would receive or retain if the applicable Debtor were hypothetically liquidated under chapter 7 of the Bankruptcy Code on such date. The assumptions and estimates in the liquidation analysis that are set forth in Exhibit 5 to the Disclosure Statement are reasonable in the context of these Chapter 11 Cases, including the assumption that the compromises and settlements incorporated in the Plan would also be consummated in a hypothetical chapter 7 liquidation. Conversion of the Chapter 11 Cases to chapter 7 would result in substantial additional delay and expense, as well as diminished asset value.

CC. Acceptance by Certain Classes (11 U.S.C. § 1129(a)(8)). Other than classes of Claims identified in the Voting Certification for which no votes were cast (the “Non-Voting Classes”), at each Debtor, all Classes in which Creditors were entitled to vote have voted to accept the Plan in accordance with section 1126(c) of the Bankruptcy Code. Under these circumstances and in light of the overwhelming support for the Plan, the Non-Voting Classes are deemed to have accepted the Plan. Claims in LBHI Class 10A, 10B, 10C and 11 (the “Deemed Rejecting Classes of Claims”), and Equity Interests in each of the Debtors are not entitled to receive or retain any property under the Plan and, therefore, are deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Although section 1129(a)(8) of the Bankruptcy Code has not been satisfied with respect to the Deemed Rejecting Classes of Claims and the Classes of Equity Interests in each Debtor, each Debtor’s Plan is confirmable because each Plan satisfies section 1129(b) of the Bankruptcy Code with respect to such Classes.

DD. Treatment of Administrative Expenses, Priority Non-Tax Claims, and Priority Tax Claims (11 U.S.C. § 1129(a)(9)). The treatment of Administrative Expense Claims and Priority Non-Tax Claims pursuant to Sections 2.1 of the Plan satisfies the requirements of sections 1129(a)(9)(A) and (B) of the Bankruptcy Code, and the treatment of Priority Tax Claims pursuant to Section 2.3 of the Plan satisfies the requirements of section 1129(a)(9)(C) of the Bankruptcy Code. Each Debtor has sufficient Cash to pay Allowed Administrative Expense Claims, Allowed Priority Non-Tax Claims, and Allowed Priority Tax Claims.

EE. Acceptance by Impaired Classes (11 U.S.C. § 1129(a)(10)). At least one Class of Claims against each Debtor that is impaired under the Plan has accepted the Plan, determined without including any acceptance of the Plan by any insider, thus satisfying the requirements of section 1129(a)(10) of the Bankruptcy Code.

FF. Feasibility (11 U.S.C. § 1129(a)(11)). The Debtors' Memorandum of Law in Support of Confirmation, the Disclosure Statement and the Suckow Declaration are persuasive and credible evidence that each Debtor will have sufficient funds to continue to manage its assets and make all payments required under the Plan. Accordingly, the Plan satisfies the requirements of section 1129(a)(11) of the Bankruptcy Code.

GG. Payment of Fees (11 U.S.C. § 1129(a)(12)). All fees payable under section 1930 of title 28, United States Code, as determined by the Court, have been paid or will be paid pursuant to Section 15.7 of the Plan. Thus, the Plan satisfies the requirements of section 1129(a)(12) of the Bankruptcy Code.

HH. Benefit Plans (11 U.S.C. § 1129(a)(13)). Section 1123(a)(13) is inapplicable to the Debtors.

II. Inapplicable Sections of Section 1129 of the Bankruptcy Code. Sections 1129(a)(14), 1129(a)(15), 1129(a)(16) and 1129(e) are inapplicable in the Debtors' Chapter 11 Cases.

JJ. Fair and Equitable; No Unfair Discrimination (11 U.S.C. § 1129(b)). Based on the Disclosure Statement, the Debtors' Memorandum of Law In Support of the Global Settlement, the Debtors' Memorandum of Law In Support of Confirmation of the Plan, the Suckow Declaration, and the Debtors' Response, the Plan (i) does not discriminate unfairly, and (ii) is fair and equitable as to LBHI Classes 10A, 10B, 10C and 11 and the Equity Interests in each Debtor, which Classes were deemed to reject the Plan, as required by section 1129(b)(1) of the Bankruptcy Code.

KK. Only One Plan (11 U.S.C. § 1129(c)). The Plan is the only plan being prosecuted in these Chapter 11 Cases, thereby satisfying section 1129(c) of the Bankruptcy Code. The Ad Hoc Group and certain of the Non-Con Plan Proponents that signed plan support agreements have agreed to support the Plan and hold their plans in abeyance and not prosecute or seek confirmation of the Plan subject to certain termination rights set forth in the Stipulation and Order, dated June 30, 2011 [ECF Nos. 18306 and 18686]. Neither the Ad Hoc Group nor the Non-Con Plan Proponents have terminated the Stipulation and Order and both are supporting the confirmation of the Plan.

LL. Principal Purpose of the Plan (11 U.S.C. § 1129(d)). The principal purpose of the Plan is not the avoidance of taxes or the avoidance of the application of Section 5 of the Securities Act of 1933, thereby satisfying section 1129(d) of the Bankruptcy Code.

MM. Good Faith Solicitation (11 U.S.C. § 1125(e)). Based on the record before the Court in these Chapter 11 Cases, the Debtors and their directors, officers, employees, members, agents, advisors, attorneys and professionals, the Released Parties and the PSA

Creditors have acted in “good faith” within the meaning of section 1125(e) of the Bankruptcy Code in compliance with the applicable provisions of the Bankruptcy Code and Bankruptcy Rules in connection with all their respective activities relating to the solicitation of acceptance or rejection of the Plan and their participation in the activities described in section 1125 of the Bankruptcy Code, and are entitled to the protections afforded by section 1125(e) of the Bankruptcy Code and the exculpation provisions set forth in Section 13.3 of the Plan.

NN. Assumption and Rejection. Article XI of the Plan governing the assumption and rejection of executory contracts and unexpired leases satisfies the requirements of section 365(b) of the Bankruptcy Code.

OO. Releases, Injunction and Exculpation. In the context of these unique Chapter 11 Cases, each of the releases, and the injunction and exculpation provisions set forth in the Plan: (a) is within the jurisdiction of the Bankruptcy Court under 28 U.S.C. §§ 1334(a), 1334(b), and 1334(d); (b) is an essential means of implementing the Plan pursuant to section 1123(a)(6) of the Bankruptcy Code; (c) is an integral element of the transactions incorporated into the Plan; (d) confers material benefits on, and is in the best interests of, the Debtors, their estates, and their Creditors; (e) is important to the overall objectives of the Plan; and (f) is consistent with sections 105, 1123, and 1129 of the Bankruptcy Code, other provisions of the Bankruptcy Code, and other applicable law.

PP. Satisfaction of Confirmation Requirements. The Plan satisfies the requirements for confirmation set forth in section 1129 of the Bankruptcy Code.

QQ. Objections. All parties have had a full and fair opportunity to litigate all issues raised in the objections (excluding any timely filed objections that relate solely to assumption of any executory contract), or which might have been raised, and the objections

(excluding any timely filed objections that relate solely to assumption of any executory contract) have been fully and fairly litigated.

RR. Retention of Jurisdiction. The Court is authorized to retain jurisdiction over the matters set forth in Article XIV of the Plan and section 1142 of the Bankruptcy Code, as well as any motions filed prior to the Effective Date requesting authorization to use, sell, or lease assets outside the ordinary course of business pursuant to section 363 of the Bankruptcy Code.

CONCLUSIONS OF LAW

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

1. Confirmation. The Plan is approved and confirmed under section 1129 of the Bankruptcy Code. The documents contained in the Plan Supplement are authorized and approved. The terms of the Plan, all Exhibits thereto, and the Plan Supplement are incorporated by reference into and are an integral part of the Plan and this Confirmation Order and are all approved.

2. Objections. All objections (excluding any timely filed objections that relate solely to assumption of any executory contract) that have not been withdrawn, waived, or settled, and all reservations of rights pertaining to confirmation of the Plan included therein, are overruled on the merits for the reasons set forth in the Response, the Debtors' Memorandum of Law In Support of Confirmation and the Debtors' Memorandum of Law In Support of the Global Settlement.

3. Conclusions of Law. The conclusions of law set forth herein and in the record of the Confirmation Hearing constitute the Court's conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure, as made applicable herein by Bankruptcy Rules 7052

and 9014. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

4. Modifications to the Plan. The Plan Modifications meet the requirements of sections 1127(a) and (c) of the Bankruptcy Code and do not adversely change the treatment of the Claim of any Creditor or the Equity Interest of any equity security holder within the meaning of Bankruptcy Rule 3019, and, therefore, all holders of Claims against the Debtors who voted to accept the Plan are hereby deemed to have accepted the Plan as amended by the Plan Modifications, and no further solicitation or voting is required. No holder of a Claim against the Debtors who has voted to accept the Plan shall be permitted to change its acceptance or rejection as a consequence of the Plan Modifications.

5. Solicitation and Notice. Notice of the Confirmation Hearing complied with the terms of the Disclosure Statement Order, was appropriate and satisfactory based upon the circumstances of the Debtors' Chapter 11 Cases, and was in compliance with the provisions of the Bankruptcy Code, the Bankruptcy Rules and the Local Rules. The solicitation of votes on the Plan complied with the solicitation procedures in the Disclosure Statement Order, was appropriate and satisfactory under the circumstances of the Debtors' Chapter 11 Cases, and was in compliance with the provisions of the Bankruptcy Code, the Bankruptcy Rules and the Local Rules. Notice of the Plan Supplement and all related documents, was appropriate and satisfactory under the circumstances of the Debtors' Chapter 11 Cases, and was in compliance with the provisions of the Bankruptcy Code, the Bankruptcy Rules and the Local Rules.

6. Implementation. On and after the Effective Date, the Debtors, and the Plan Administrator are authorized to (i) execute, deliver, file, or record such documents, contracts, instruments, releases, and other agreements, including, without limitation, those contained in the Plan Supplement, (ii) make any and all Distributions and transfers contemplated

pursuant to, and as provided for in, the Plan, and (iii) take such other actions as may be necessary to effectuate, implement, and further evidence the terms and conditions of the Plan.

7. Plan Classification Controlling. The classification of Claims and Equity Interests for purposes of the Distributions to be made under the Plan shall be governed solely by the terms of the Plan. The classifications set forth on the Ballots tendered to or returned by the Debtors' Creditors in connection with voting on the Plan (a) were set forth on the Ballots for purposes of voting to accept or reject the Plan, (b) do not necessarily represent, and in no way affect, the actual classification of such Claims and Equity Interests under the Plan for Distribution purposes, and (c) shall not be binding on the Debtors.

8. Binding Effect. The Plan and its provisions shall be binding on the Debtors, any entity acquiring or receiving property or a Distribution under the Plan, and any holder of a Claim against or Equity Interest in the Debtors, including all governmental entities, whether or not the Claim or Equity Interest of such holder (a) is impaired under the Plan or (b) has accepted the Plan.

The Global Settlement

9. Global Settlement Provisions. Based on the Debtors' Memorandum of Law In Support of the Global Settlement, the Ehrmann Declaration, the Suckow Declaration, and the Disclosure Statement, the Global Settlement set forth in section 6.5 of the Plan, and each component of the Global Settlement, are hereby approved pursuant to Bankruptcy Rule 9019 as fair and reasonable and in the best interests of each of the Debtors, their estates and Creditors. The settlement is within the range of reasonable results if the issues were litigated and falls above the lowest point in the range of reasonableness.

The Bilateral Settlements

10. The Plan constitutes a motion for approval of each of the Bilateral Settlements pursuant to Bankruptcy Rule 9019. The settlement agreements were included in the Plan or the Plan Supplement, which provided adequate and sufficient notice to all Creditors.

11. Approval of Bankhaus Settlement. Based on the Debtors' Memorandum of Law In Support of the Global Settlement, the Ehrmann Declaration, the Suckow Declaration, and the Disclosure Statement, the settlement between the Debtors and Lehman Brothers Bankhaus AG ("Bankhaus") described in the Disclosure Statement and incorporated into the Plan pursuant to Section 6.5(b)(ii) of the Plan (the "Bankhaus Settlement Agreement") is fair and reasonable and is in the best interests of the Debtors and their Creditors and is hereby approved pursuant to Bankruptcy Rule 9019. The Debtors are duly authorized to execute, deliver, implement and fully perform any and all obligations, instruments, documents, and papers and to take any and all actions reasonably necessary or appropriate to consummate the Bankhaus Settlement Agreement, including waiving any conditions precedent to its effectiveness, and to perform any and all obligations contemplated therein. Pursuant to section 502 of the Bankruptcy Code, Bankhaus shall have Allowed Claims against the Debtors in the amounts set forth in the Bankhaus Settlement Agreement.

12. Approval of LBT Settlement. Based on the Debtors' Memorandum of Law In Support of the Global Settlement, the Ehrmann Declaration, the Suckow Declaration, and the Disclosure Statement, the settlement between the Debtors and Lehman Brothers Treasury Co. B.V. ("LBT") described in the Disclosure Statement and incorporated into the Plan pursuant to Section 6.5(b)(iii) of the Plan (the "LBT Settlement Agreement") is fair and reasonable and is in the best interests of the Debtors and their Creditors and is hereby approved pursuant to Bankruptcy Rule 9019. The Debtors are duly authorized to execute, deliver, implement and fully

perform any and all obligations, instruments, documents, and papers and to take any and all actions reasonably necessary or appropriate to consummate the LBT Settlement Agreement, including waiving any conditions precedent to its effectiveness, and to perform any and all obligations contemplated therein. Pursuant to section 502 of the Bankruptcy Code, LBT shall have Allowed Claims against the Debtors in the amounts set forth in the LBT Settlement Agreement.

13. Approval of Hong Kong Settlement. Based on the Debtors' Memorandum of Law In Support of the Global Settlement, the Ehrmann Declaration, the Suckow Declaration, and the Disclosure Statement, the settlement between the Debtors and the Hong Kong Lehman Entities In Liquidation described in the Disclosure Statement and incorporated into the Plan pursuant to Section 6.5(b)(v) of the Plan (the "Hong Kong Settlement Agreement") is fair and reasonable and is in the best interests of the Debtors and their Creditors and is hereby approved pursuant to Bankruptcy Rule 9019. The Debtors are duly authorized to execute, deliver, implement and fully perform any and all obligations, instruments, documents, and papers and to take any and all actions reasonably necessary or appropriate to consummate the Hong Kong Settlement Agreement, including waiving any conditions precedent to its effectiveness, and to perform any and all obligations contemplated therein. Pursuant to section 502 of the Bankruptcy Code, the Hong Kong Lehman Entities shall have Allowed Claims against the Debtors in the amounts set forth in the Hong Kong Settlement Agreement

14. Approval of Singapore Settlement. Based on the Debtors' Memorandum of Law In Support of the Global Settlement, the Ehrmann Declaration, the Suckow Declaration, and the Disclosure Statement, the settlement between the Debtors and the Lehman Singapore Entities described in the Disclosure Statement and incorporated into the Plan pursuant to 6.5(b)(vi) of the Plan (the "Singapore Settlement Agreement") is fair and reasonable and is in the

best interests of the Debtors and their Creditors and is hereby approved pursuant to Bankruptcy Rule 9019. The Debtors are duly authorized to execute, deliver, implement and fully perform any and all obligations, instruments, documents, and papers and to take any and all actions reasonably necessary or appropriate to consummate the Singapore Settlement Agreement, including waiving any conditions precedent to its effectiveness, and to perform any and all obligations contemplated therein. Pursuant to section 502 of the Bankruptcy Code, Lehman Singapore shall have Allowed Claims against the Debtors in the amounts set forth in the Singapore Settlement Agreement.

15. Approval of Lehman UK Entities Settlement. Based on the Debtors' Memorandum of Law In Support of the Global Settlement, the Ehrmann Declaration, the Suckow Declaration, and the Disclosure Statement, the settlement between the Debtors and the Lehman UK Entities set forth in the agreement, dated October 24, 2011 included in the Plan Supplement (the "Lehman UK Entities Settlement Agreement") and incorporated into the Plan pursuant to Section 6.5(b)(vii), is fair and reasonable and is in the best interests of the Debtors and their Creditors and is hereby approved pursuant to Bankruptcy Rule 9019. The Debtors are duly authorized to execute, deliver, implement and fully perform any and all obligations, instruments, documents, and papers and to take any and all actions reasonably necessary or appropriate to consummate the Lehman UK Entities Settlement Agreement, including waiving any conditions precedent to its effectiveness, and to perform any and all obligations contemplated therein. Pursuant to section 502 of the Bankruptcy Code, the Lehman UK Entities shall have Allowed Claims against the Debtors in the amounts set forth in the Lehman UK Entities Settlement Agreement.

16. Approval of LBJ Settlement. Based on the Debtors' Memorandum of Law In Support of the Global Settlement, the Ehrmann Declaration, the Suckow Declaration, and the

Disclosure Statement, the settlement between the Debtors and the Lehman Japan Entities set forth in the agreement, dated as of October 24, 2011, included in the Plan Supplement (the “LBJ Settlement Agreement”) and incorporated into the Plan pursuant to Section 6.5(b)(vii), is fair and reasonable and is in the best interests of the Debtors and their Creditors and is hereby approved pursuant to Bankruptcy Rule 9019. The Debtors are duly authorized to execute, deliver, implement and fully perform any and all obligations, instruments, documents, and papers and to take any and all actions reasonably necessary or appropriate to consummate the LBJ Settlement Agreement, including waiving any conditions precedent to its effectiveness, and to perform any and all obligations contemplated therein. Pursuant to section 502 of the Bankruptcy Code, the Lehman Japan Entities shall have Allowed Claims against the Debtors in the amounts set forth in the LBJ Settlement Agreement.

17. Approval of LBSN Settlement. Based on the Debtors’ Memorandum of Law In Support of the Global Settlement, the Ehrmann Declaration, the Suckow Declaration, and the Disclosure Statement, the settlement between the Debtors and the Lehman Brothers Securities N.V. (“LBSN”) set forth in the agreement, dated as of October 19, 2011, included in the Plan Supplement (the “LBSN Settlement Agreement”) and incorporated into the Plan pursuant to Section 6.5(b)(vii), is fair and reasonable and is in the best interests of the Debtors and their Creditors and is hereby approved pursuant to Bankruptcy Rule 9019. The Debtors are duly authorized to execute, deliver, implement and fully perform any and all obligations, instruments, documents, and papers and to take any and all actions reasonably necessary or appropriate to consummate the LBSN Settlement Agreement, including waiving any conditions precedent to its effectiveness, and to perform any and all obligations contemplated therein. Pursuant to section 502 of the Bankruptcy Code, LBSN shall have Allowed Claims against the Debtors in the amounts set forth in the LBSN Settlement Agreement.

18. Approval of LB Lux Settlement. Based on the Debtors' Memorandum of Law In Support of the Global Settlement, the Ehrmann Declaration, the Suckow Declaration, and the Disclosure Statement, the settlement between the Debtors and Lehman Brothers (Luxembourg) Equity Finance S.A. (*en faillite*) ("LB Lux") set forth in the agreement, dated as of October 25, 2011, included in the Plan Supplement (the "LB Lux Settlement Agreement") and incorporated into the Plan pursuant to Section 6.5(b)(vii), is fair and reasonable and is in the best interests of the Debtors and their Creditors and is hereby approved pursuant to Bankruptcy Rule 9019. The Debtors are duly authorized to execute, deliver, implement and fully perform any and all obligations, instruments, documents, and papers and to take any and all actions reasonably necessary or appropriate to consummate the LB Lux Settlement Agreement, including waiving any conditions precedent to its effectiveness, and to perform any and all obligations contemplated therein. Pursuant to section 502 of the Bankruptcy Code, LB Lux shall have Allowed Claims against the Debtors in the amounts set forth in the LB Lux Settlement Agreement.

19. Approval of BdB Settlement. Based on the Debtors' Memorandum of Law In Support of the Global Settlement, the Ehrmann Declaration, the Suckow Declaration, and the Disclosure Statement, the settlement between the Debtors and BdB set forth in the agreement, dated as of September 30, 2011, included in the Plan Supplement (the "BdB Settlement Agreement") and incorporated into the Plan pursuant to Section 6.5(j), is fair and reasonable and is in the best interests of the Debtors and their Creditors and is hereby approved pursuant to Bankruptcy Rule 9019. The Debtors are duly authorized to execute, deliver, implement and fully perform any and all obligations, instruments, documents, and papers and to take any and all actions reasonably necessary or appropriate to consummate the BdB Settlement Agreement, including waiving any conditions precedent to its effectiveness, and to perform any

and all obligations contemplated therein. Pursuant to section 502 of the Bankruptcy Code, BdB shall have Allowed Claims against the Debtors in the amounts set forth in the BdB Settlement Agreement.

20. Approval of EdB Settlement. Based on the Debtors' Memorandum of Law In Support of the Global Settlement, the Ehrmann Declaration, the Suckow Declaration, and the Disclosure Statement, the settlement between the Debtors and EdB set forth in the agreement, dated as of September 30, 2011, included in the Plan Supplement (the "EdB Settlement Agreement") and incorporated into the Plan pursuant to Section 6.5(j), is fair and reasonable and is in the best interests of the Debtors and their Creditors and is hereby approved pursuant to Bankruptcy Rule 9019. The Debtors are duly authorized to execute, deliver, implement and fully perform any and all obligations, instruments, documents, and papers and to take any and all actions reasonably necessary or appropriate to consummate the EdB Settlement Agreement, including waiving any conditions precedent to its effectiveness, and to perform any and all obligations contemplated therein. Pursuant to section 502 of the Bankruptcy Code, EdB shall have Allowed Claims against the Debtors in the amounts set forth in the EdB Settlement Agreement.

21. Approval of Bundesbank Settlement. Based on the Debtors' Memorandum of Law In Support of the Global Settlement, the Ehrmann Declaration, the Suckow Declaration, and the Disclosure Statement, the settlement between the Debtors and Bundesbank set forth in the agreement, dated as of October 11, 2011, included in the Plan Supplement (the "Bundesbank Settlement Agreement") and incorporated into the Plan pursuant to Section 6.5(j), is fair and reasonable and is in the best interests of the Debtors and their Creditors and is hereby approved pursuant to Bankruptcy Rule 9019. The Debtors are duly authorized to execute, deliver, implement and fully perform any and all obligations, instruments,

documents, and papers and to take any and all actions reasonably necessary or appropriate to consummate the Bundesbank Settlement Agreement, including waiving any conditions precedent to its effectiveness, and to perform any and all obligations contemplated therein. Pursuant to section 502 of the Bankruptcy Code, Bundesbank shall have Allowed Claims against the Debtors in the amounts set forth in the Bundesbank Settlement Agreement.

22. Approval of Deutsche Bank Settlement. Based on the Debtors' Memorandum of Law In Support of the Global Settlement, the Ehrmann Declaration, the Suckow Declaration, and the Disclosure Statement, the settlement between the LBHI, LCPI, Deutsche Bank AG, Monarch Alternative Capital LP, Stone Lion Portfolio L.P., Permal Stone Lion Fund Ltd., Centerbridge Credit Advisors LLC, and Anchorage Capital Group, L.L.C. set forth in the agreement, dated as of November 23, 2011, included in the Plan Supplement (the "DB Claims Settlement Agreement") and incorporated into the Plan pursuant to Section 6.5(j), is fair and reasonable and is in the best interests of the Debtors and their Creditors and is hereby approved pursuant to Bankruptcy Rule 9019. The Debtors are duly authorized to execute, deliver, implement and fully perform any and all obligations, instruments, documents, and papers and to take any and all actions reasonably necessary or appropriate to consummate the DB Claims Settlement Agreement, including waiving any conditions precedent to its effectiveness, and to perform any and all obligations contemplated therein.

23. Implementation of the Bilateral Settlements. The Debtors are authorized to take all actions to implement the terms of each of the Bilateral Settlements. The Debtors are authorized to direct Epiq Bankruptcy Solutions, LLC, the court-appointed claims agent (the "Claims Agent") to modify the official claims register (the "Claims Register") to reflect the terms of the Bilateral Settlements.

24. Debtors' Claims Schedule. Pursuant to the Bar Date Order, the Debtors were not required to file Claims against each other. Pursuant to Section 6.5(b)(i) of the Plan, Senior Affiliate Claims, Senior Affiliate Guarantee Claims and Affiliate Claims of a Debtor against another Debtor are Allowed in the applicable Classes in the net amounts set forth on pages 1 and 2 of the Debtors' Claims Schedule. Other than any Claims that arise out of the Debtor Allocation Agreement, the amounts included on the Debtors' Claims Schedule shall be the only prepetition Claims of the Debtors against each other that are Allowed. The Claims Agent is authorized to take all actions to reflect the Claims set forth in the Debtor Claims Schedule on the Claims Register.

25. Schedule of Claims of Debtor-Controlled Entities. Pursuant to the Bar Date Order, the Debtor-Controlled Entities were not required to file proofs of Claim against the Debtors prior to the Bar Date. The Schedule of Claims of Debtor-Controlled Entities included in the Plan Supplement sets forth the prepetition Claims of the Debtor-Controlled Entities against each of the Debtors that will be Allowed pursuant to the Plan upon the occurrence of the Effective Date. The Claims will be Allowed as Senior Affiliate Claims (LBHI Class 4A), Senior Affiliate Guarantee Claims (LBHI Class 4B) and Affiliate Claims (LBHI Class 8) against LBHI as set forth in the Schedule of Claims of Debtor-Controlled Entities and against each of the Subsidiary Debtors in the Class of Claims of Affiliates Other Than Participating Debtors. Except for Claims that may arise between the Debtors and the Debtor-Controlled Entities in accordance with the Debtor Allocation Agreement or Claims for which a proof of Claim was timely filed, (i) the amounts included on the Schedule of Claims of Debtor-Controlled Entities shall be the only prepetition Claims of the Debtor-Controlled Entities that are Allowed against the Debtors and (ii) to the extent any Debtor-Controlled Entity is not included on the Schedule of Claims of Debtor-Controlled Entities, such Debtor-Controlled Entity shall not have any Allowed

prepetition Claims against the Debtors. Notwithstanding the foregoing, the Schedule of Claims of Debtor-Controlled Entities provides that LB Re Financing No. 2 Limited shall have an Allowed Claim against LBHI in LBHI Class 4A in the amount of \$6,761,074,231, which amount shall supersede in all respects the Claim filed by LB Re Financing No. 2 Limited against LBHI (Claim No. 23568), which proof of Claim shall be disregarded for all purposes. In addition, the Debtor-Controlled Entities Claims Schedule provides that LB Offshore Partners Ltd. shall have an Allowed Claim against LBSF in LBSF Class 5C in the amount of \$144,992. The Allowed Claims set forth on this schedule shall supersede in all respects the claim filed by LB Offshore Partners Ltd (Claim No. 27448). However, this shall not have any effect on Claim Nos. 24609 and 24611, which LB Offshore Partners Ltd. acquired from a third party. The Claims Agent is authorized to take all actions to reflect the Claims set forth in the Debtor-Controlled Entities Claims Schedule on the Claims Register.

26. Debtor Allocation Agreement. The Debtor Allocation Agreement, which provides for the manner in which (a) expenses of the administration of the assets and liabilities of the Debtors and certain of their affiliates, (b) the costs and benefits of Jointly Owned Litigation Claims, (c) tax liabilities, refunds or readjustments for periods prior to, during and after the Effective Date, will be allocated among the Debtors, is approved. Pursuant to the Debtor Allocation Agreement, LBSF shall have an Allowed Administrative Expense Claim against LBHI in the amount of \$300 million to be satisfied in accordance with Section 6.3 of the Plan. The Debtors and the Plan Administrator are authorized to take all actions necessary to allocate such costs and expenses in accordance with the Debtor Allocation Agreement.

27. Resolution of Inter-Debtor Issues. In order to “close” the various inter-company repurchase transactions, remove encumbrances, and to simplify the accounting for the estates, the Debtors are authorized to make the transfers set forth in the Exhibit 10 of the Plan

Supplement. Except as set forth in the preceding sentence, all Claims and disputes among the Debtors or a Debtor and any Debtor-Controlled Entity regarding the title or beneficial ownership of assets are hereby resolved in favor of the Debtor or Debtor-Controlled Entity whom the Debtors have determined have beneficial ownership of these assets. All Avoidance Actions of any Debtor against another Debtor or Debtor-Controlled Entity are fully and irrevocably released. All reservations of rights of any of the Debtors or affiliates of the Debtors or their respective Creditors, to assert any arguments or challenge any transaction entered into by any other Debtors contained in any order entered by this Court prior the date hereof or agreement entered into by any Debtor or affiliate of any Debtor are fully and finally extinguished.

28. Plan Trust Agreement. The Plan Trust Agreement, which provides that the Plan Trust will hold the Plan Trust Stock, is approved. The members of the Director Selection Committee who are serving in such capacity as of the Effective Date, or their replacements designated in accordance with the Court's Order Pursuant to Sections 105(a), 363(b), and 1142(b) of the Bankruptcy Code, Appointing the Director Selection Committee, Approving Retention of Korn/Ferry International, and Authorizing Certain Related Relief [ECF No. 22871], shall serve as the Plan Trustees and shall have the rights and obligations set forth in section 7.4 of the Plan and the Plan Trust Agreement.

Executory Contracts and Unexpired Leases

29. Pursuant to Section 11.1 of the Plan, all prepetition executory contracts and unexpired leases to which any of the Debtors are parties shall be deemed to be rejected pursuant to section 365 of the Bankruptcy Code, except for any executory contract or unexpired lease (a) that has been assumed pursuant to an order of the Court entered prior to the Effective Date, (b) as to which a motion for approval of the assumption or rejection of such executory contract or unexpired lease has been filed prior to the Confirmation Date, or (c) that is

specifically designated in the Plan Supplement as a contract or lease to be assumed by the Debtor.

30. Pursuant to sections 365(a) and 1123(b)(2) of the Bankruptcy Code, the assumption of each executory contract and unexpired lease designated in the Plan Supplement other than any executory contracts set forth on Schedules 1 and 2 hereto, or that are the subject of the objections listed on Schedules 1 and 2 hereto, is approved. To the extent any provision of an executory contract or unexpired lease to be assumed by any of the Debtors under the Plan limits such Debtor's ability to assign such executory contract or unexpired lease, the effectiveness of such provision is hereby limited or unenforceable to the full extent provided in section 365(f) of the Bankruptcy Code. The hearing regarding the Debtors' ability to assume, or assume and assign, any executory contract or unexpired lease set forth on Schedule 1 hereto or that is the subject of the objections listed on Schedule 1 hereto (the "February 14 Contracts") shall be held by the Court **on February 14, 2011 at 10:00 a.m.** The inclusion on the Plan Supplement of the executory contracts set forth on Schedule 2 hereto (the "Deferred Contracts") constitutes a motion for assumption of the executory contract or unexpired lease, which has been adjourned without date and shall be scheduled by the Debtors, with leave from the Court, on a date to be determined with at least 30 days notice to the counterparty, or as otherwise agreed. All of the Debtors' rights with respect to the February 14 Contracts and the Deferred Contracts are reserved.

31. If the Court determines either before or after the Effective Date that the cure amount or requirements for adequate assurance for any Deferred Contract is in excess of the amount asserted by the Debtors, or if the Debtors determine not to proceed to assume any Deferred Contract, the Debtors' rights are fully preserved to amend Exhibit 2 to the Plan Supplement to remove the applicable contract(s), and upon such removal the applicable

contract(s) shall be deemed rejected as of the Effective Date in accordance with Section 11.1 of the Plan.

32. The filing and service of the Plan and the Plan Supplement, the service of a notice of the cure amount, and the publication of the Confirmation Order is adequate notice of the assumption of executory contracts and unexpired leases that are assumed pursuant to this Order and the Plan (the “Assumed Contracts”).

33. Except as may otherwise be agreed to by the parties to a particular contract, within thirty (30) days after the Effective Date, the applicable Debtor shall cure any and all payment defaults under its respective Assumed Contracts in accordance with section 365(b) of the Bankruptcy Code, by payment of the amount specified by the applicable Debtor in the Cure Notice sent by the Debtor with respect to such Assumed Contract. With respect to February 14 Contracts and Deferred Contracts, disputed defaults that are required to be cured shall be cured either within thirty (30) days of the entry of a Final Order determining the amount, if any, of the Debtor’s liability with respect thereto, or as may otherwise be agreed to by the parties. Notwithstanding any requirement in the Bankruptcy Code that executory contracts be assumed or rejected on or prior to the Confirmation Date, the Debtors shall (i) be entitled to assume any executory contract that the Court determines the Debtors are entitled to assume, or (ii) reject any executory contract that either the Court determines the Debtors are not entitled to assume, or that the Debtors elect to reject at any time prior to the hearing on February 14, 2011, in which case, such assumption or rejection shall be effective as of the Effective Date.

34. All counterparties to Assumed Contracts have been provided with adequate assurance of future performance pursuant to section 365(f) of the Bankruptcy Code.

35. The assumption of a prepetition executory contract shall not enhance any contractual rights of a counterparty that were otherwise unenforceable under the Bankruptcy

Code immediately prior to the assumption or rejection of such contract; *provided, however*, that the rights of all counterparties to assert that a contractual right was enforceable under the Bankruptcy Code immediately prior to assumption or rejection and the Debtors' rights to dispute any such assertions are fully preserved.

36. With respect to the Assumed Contracts, any defaults on the part of the Debtors that may arise because of a condition of the kind specified in section 365(b)(2) of the Bankruptcy Code ("Ipsa Facto Defaults") are not subject to the requirements under section 365(b)(1) of the Bankruptcy Code and no party shall be permitted to declare a default, terminate, cease payment, delivery or any other performance under any executory contract, or any agreement relating thereto, or otherwise modify any such executory contract, assert any Claim or right to termination payment, or impose any penalty or otherwise take action against a Debtor as a result of an Ipsa Facto Default.

37. Bar Date for Rejection Damage Claims. Pursuant to Section 11.4 of the Plan, if the rejection of an executory contract or unexpired lease by any of the Debtors pursuant to Section 11.1 of the Plan results in damages to the other party or parties to such contract or lease, if not evidenced by a previously filed proof of Claim, a Claim for such damages shall be forever barred and shall not be enforceable against the Debtors, or any property to be distributed under the Plan, unless a proof of Claim is filed with the Court and served upon the Debtors, on or before the date that is forty-five (45) days after the later of (a) notice of entry of an order approving the rejection of such executory contract or unexpired lease, (b) notice of entry of the Confirmation Order and occurrence of the Effective Date, and (c) notice of an amendment to the Plan Supplement relating to such executory contract or unexpired lease. All Claims filed against the Debtors as a result of the rejection of an executory contract or unexpired lease must be filed in accordance with the procedures for the filing of Claims set forth in the Bar Date Order,

including the requirements to complete the Derivatives Questionnaire and/or the Guarantee Questionnaire, as applicable. Service of the Confirmation Notice shall be sufficient notice to the applicable counterparties to executory contracts and unexpired leases of the rejection of their executory contracts and unexpired leases pursuant to the Plan and the deadlines and procedures for filing and Claims against the Debtors resulting from such rejection.

38. Insurance Contracts. To the extent that any of the Debtors' insurance policies and any agreements, documents or instruments with insurers relating thereto constitute executory contracts, such contracts shall be deemed assumed under the Plan.

Title to Assets

39. Vesting of Assets. Pursuant to Section 13.1 of the Plan, except as otherwise provided in the Plan, all property of each of the Debtor's estates shall vest in that Debtor free and clear of all Claims, liens, encumbrances, charges and other interests. From and after the Effective Date, the Debtors, acting through the Plan Administrator, may take any action, including, without limitation, the operation of their businesses, the use, acquisition, sale, lease and disposition of property, and the entry into transactions, agreements, understandings or arrangements, whether or not in the ordinary course of business, and execute, deliver, implement, and fully perform any and all obligations, instruments, documents and papers or otherwise in connection with any of the foregoing, free of any restrictions of the Bankruptcy Code or the Bankruptcy Rules and in all respects as if there were no pending cases under any chapter or provision of the Bankruptcy Code, except as explicitly provided in the Plan.

Distributions and Reserves

40. Initial Distributions. If the Debtors make the initial Distribution after January 31 but before March 30, 2012, then notwithstanding the provisions of Section 8.3 of the Plan, the Debtors shall not be required to make a Distribution on March 30, 2012 and the second Distribution will be made on September 30, 2012. All subsequent Distributions shall be made on the semi-annual dates set forth in Section 8.3 of the Plan.

41. Effective Date Payments and Transfers by the Debtors. Pursuant to Section 2.1 of the Plan, and subject to Sections 8.3 and 8.4 of the Plan, on the Effective Date, or as soon thereafter as is practicable, the Debtors shall remit to holders of Allowed Administrative Expense Claims, Allowed Priority Tax Claims, Allowed Priority Non-Tax Claims, and, if applicable, Allowed Secured Claims Cash in an amount equal to the Allowed amount of such Claims.

42. Reserve Requirements. Pursuant to Section 8.4 of the Plan, the Debtors shall reserve an aggregate amount equal to the Pro Rata Share of the Distributions that would have been made to each holder of a Disputed Claim if such Disputed Claim were an Allowed Claim against such Debtor in an amount equal to the least of (a) the filed amount of such Disputed Claim as set forth on the Claims Register maintained by the Claims Agent, (b) the amount determined, to the extent permitted by the Bankruptcy Code and Bankruptcy Rules, by the Court for purposes of fixing the amount to be retained for such Disputed Claim, and (c) such other amount as may have been agreed upon by the holder of such Disputed Claim and the Debtors or may be agreed upon by the holder of such Disputed Claim and the Plan Administrator.

43. No Reserve for Disallowed or Expunged Claims. None of the Debtors shall be required to establish reserves for Claims that have been disallowed or expunged by order

of the Court in the absence of an order of the Court expressly directing the Debtor to establish a reserve.

44. Distributions to Holders of Allowed Convenience Claims and Allowed Convenience Guarantee Claims. A single Distribution to holders of Convenience Claims and Convenience Guarantee Claims in the amounts set forth in the Plan shall satisfy such Claims in full. Such Creditors shall not have any further right to a Distribution from any Debtor in respect of their Convenience Claims or Convenience Guarantee Claims. Holders of Convenience Claims subject to the *Order Pursuant to Sections 105(a) and 502(b) of the Bankruptcy Code and Bankruptcy Rule 9019 Approving Procedures for the Determination of the Allowed Amount of Claims Filed Based on Structured Securities Issued or Guaranteed by Lehman Brothers Holdings Inc.* [ECF No. 19120] (the “Structured Securities Procedures Order”) shall be bound by this paragraph even if the Debtors determine subsequent to the date hereof that the value of a structured security is greater than the amount previously proposed by the Debtors pursuant to the Structured Securities Valuation Methodologies and Structured Securities Procedures Order.

45. Setoffs and Recoupment. Except as otherwise agreed by a Debtor, including in the Plan, any Debtor may, but shall not be required to, setoff against or recoup from any Claim and the payments to be made pursuant to the Plan in respect of such Claim any Claims of any nature whatsoever that the Debtor may have against the claimant; *provided, however*, that the claimant shall be served with written notice of the proposed setoff or recoupment at least twenty-eight (28) days prior to exercising any asserted setoff or recoupment right, and, if such claimant serves a written objection to such asserted setoff or recoupment on or before twenty-eight (28) days of receipt of such written notice, (i) the objection shall be deemed to initiate a contested matter governed by, *inter alia*, Bankruptcy Rule 9014 and Local Rules 9014-1 and 9014-2, (ii) nothing herein shall affect the respective burden of each party in connection with

such contested matter, and (iii) the Debtor shall not proceed with the asserted setoff or recoupment absent the withdrawal of such objection or the entry of a Final Order overruling such objection but the Debtor may withhold such payment pending resolution of such objection; *provided, further*, that neither the failure to setoff against or recoup from any Claim nor the allowance of any Claim hereunder shall constitute a waiver or release by such Debtor of any such Claim the Debtor may have against such claimant.

Post-Effective Date Management of the Debtors

46. Boards of Directors. Following the Effective Date, the board of directors of LBHI shall be: Frederick Arnold, Robert S. Gifford, Thomas A. Knott, Sean O. Mahoney, David Pauker, Ronald K. Tanemura and Owen D. Thomas.

47. Following the Effective Date, the board of directors of LBSF and LCPI shall each consist of three (3) individuals as follows: (i) an individual who is a concurrently serving member of the LBHI board of directors who is selected by the LBHI board of directors; (ii) an individual who is a concurrently serving member of the LBHI board of directors who is selected by the LBHI board of directors and acceptable to the Opco Plan Proponents who are PSA Creditors; and (iii) an individual who is selected by the individuals appointed pursuant to (i) and (ii) of this section and who is independent from LBHI, the members of the Director Selection Committee and, in the case of LBSF, LBSF, or in the case of LCPI, LCPI. Pursuant to the Plan, the boards of directors of each of the Subsidiary Debtors, other than LBSF and LCPI, shall consist of one (1) director which shall be a member of the LBHI board of directors. With respect to a Subsidiary Debtor incorporated or formed under the laws of a jurisdiction outside of the United States, if the laws of such foreign jurisdiction require the appointment of more than one (1) director or manager to the board of directors or managers of such Subsidiary Debtor or of a director or manager that is not an individual concurrently serving as a member of the LBHI

board of directors, such additional or alternative directors or managers shall be appointed by the LBHI board of directors

48. Post Effective Date Role of Creditors' Committee. On the Effective Date, the Creditors' Committee shall be dissolved for all purposes other than (i) implementation of the Plan through the date of the initial Distribution in accordance with Section 8.3 of the Plan; (ii) defending any appeals from this Confirmation Order until final disposition of such appeals; and (iii) all matters relating to professional fees and the fee committee appointed in the Chapter 11 Cases for the period prior to the Effective Date. Following the Effective Date, the litigation and derivatives subcommittees of the Creditors' Committee may continue functioning for the limited purposes of (i) resolving pending litigation and (ii) subject to approval of the post-Effective Date board of directors of LBHI, other litigation and derivatives matters as to which, currently, the subcommittees are involved, and which shall be recommended by the applicable subcommittee and the Plan Administrator. Other than with respect to the foregoing, the members of the Creditors' Committee shall be released and discharged of and from all further authority, duties, responsibilities, and obligations related to and arising from and in connection with the Chapter 11 Cases, and the retention or employment of the Creditors' Committee's attorneys, accountants, and other agents shall terminate. The Debtors shall pay the reasonable fees and expenses of the professionals retained by and shall reimburse the members of the remaining subcommittees for reasonable disbursements incurred, including the reasonable fees of counsel, in connection with the foregoing from and after the Effective Date. If a member of a subcommittee becomes unable to serve on a subcommittee or resigns after the Effective Date, the remaining members may replace such member, continue to discharge the subcommittee's roles, or dissolve by a majority vote of the remaining members. Each of the subcommittees shall be deemed dissolved upon the

earliest to occur of (i) voluntary agreement of the members of the subcommittee, (ii) the completion of the subcommittee's responsibilities, and (iii) the Closing Date.

49. Post-Effective Date Role of Fee Committee. The fee committee appointed in the Chapter 11 Cases shall continue to exist after the Effective Date to perform its duties under the Amended Fee Protocol approved by the Court [ECF No. 15998] in connection with all applications for approval of professional fees incurred prior to the Effective Date, and all related proceedings, including hearings on final fee applications. The Debtors shall pay the reasonable fees and expenses of the independent member and counsel retained by the fee committee in connection with the foregoing from and after the Effective Date.

50. Post Effective Date Reporting. Beginning the first month-end and first quarter-end following the Effective Date and until the Closing Date, the Plan Administrator shall file with the Court reports consistent with the obligations set forth in section 15.6 of the Plan.

51. General Authorizations. The Plan Administrator on behalf of the Debtors is authorized to execute, deliver, file, or record such contracts, instruments, releases, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate, implement, and further evidence the terms and provisions of the Plan and any securities issued pursuant to the Plan. The Debtors and their directors, officers, members, agents, and attorneys are authorized and empowered to issue, execute, deliver, file, or record any agreement, document, or security, including, without limitation, the documents contained in the Plan Supplement and the Exhibits to the Plan, as modified, amended, and supplemented, in substantially the form included therein, and to take any action necessary or appropriate to implement, effectuate, and consummate the Plan in accordance with its terms, or take any or all corporate actions authorized to be taken pursuant to the Plan, including merger of any of the Debtors and the dissolution of each of the Debtors, and any release, amendment, or restatement

of any bylaws, certificates of incorporation, or other organizational documents of the Debtors, whether or not specifically referred to in the Plan or the Plan Supplement, without further order of the Court, and any or all such documents shall be accepted by each of the respective state filing offices and recorded in accordance with applicable state law and shall become effective in accordance with their terms and the provisions of state law.

Releases, Discharge and Injunction

52. Releases, Exculpations, and Injunctions. The release, exculpation, and injunction provisions contained in the Plan are fair and equitable, are given for valuable consideration, and are in the best interests of the Debtors and their estates, and such provisions shall be effective and binding on all persons and entities.

53. Release and Exculpation. On and after the Effective Date, the Debtors and all entities who have held, hold or may hold Claims against or Equity Interests in any or all of the Debtors (whether proof of such Claims or Equity Interests has been filed or not), along with their respective present or former employees, agents, officers, directors or principals, shall be deemed to have released (a) the Released Parties from, and none of the Released Parties shall have or incur any liability for, any Claim for, Cause of Action for or other assertion of liability for any act taken or omitted to be taken during the Chapter 11 Cases in connection with, or arising out of, the Chapter 11 Cases, the negotiation, formulation, dissemination, confirmation, consummation or administration of the Plan, property to be distributed under the Plan or any other act or omission in connection with the Chapter 11 Cases, the Plan, the Disclosure Statement, the Plan Support Agreements or any contract, instrument, document or other agreement related thereto and (b) the PSA Creditors from, and none of the PSA Creditors shall have or incur any liability for, any Claim for, Cause of Action for or other assertion of liability for any act taken or omitted to be taken in connection with, or arising out of, the negotiation,

formulation, dissemination or confirmation, consummation or administration of the Plan, or any other act or omission in connection with the Plan, the Disclosure Statement, the Plan Support Agreements, including the filing of any alternative chapter 11 plan and any determination to not pursue solicitation or confirmation of such alternative plan, or any contract, instrument, document or other agreement related thereto; *provided, however*, that (i) other than as may be otherwise provided in any releases included in settlement agreements between the Debtors and the Foreign Affiliates, BdB, EdB and Bundesbank that are incorporated into the Plan, in no event shall any Litigation Claim, Cause of Action or other Claim or assertion of liability against any Released Party or PSA Creditor for any act taken or omitted to be taken prior to the Commencement Date be released by the Plan, (ii) nothing herein or in the Plan shall affect or release any obligation of the Debtors under the Plan, and (iii) nothing herein shall affect the liability of any person that otherwise would result from any such act or omission to the extent such act or omission is determined by a Final Order to have constituted willful misconduct or gross negligence; *provided, further*, that nothing in this Plan shall limit the liability of the professionals of the Debtors, the Creditors' Committee or the PSA Creditors to their respective clients pursuant to Rule 1.8(h)(1) of the New York Rules of Professional Conduct.

54. Term of Injunctions and Automatic Stay. Pursuant to Section 13.7 of the Plan, unless otherwise expressly provided herein or in the Plan or in a Final Order of the Court, all injunctions or stays arising under or entered during the Chapter 11 Cases under sections 105 or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the Closing Date.

55. Injunction. Pursuant to Section 13.5 of the Plan, except as expressly provided in the Plan, herein, or a separate order of the Court or as agreed to by a Creditor and the Plan Administrator (on behalf of a Debtor), all entities who have held, hold or may hold Claims

against or Equity Interests in any or all of the Debtors (whether proof of such Claims or Equity Interests has been filed or not) and other parties in interest, along with their respective present or former employees, agents, officers, directors or principals, are permanently enjoined, on and after the Effective Date, solely with respect to any Claims and Causes of Action that will be or are extinguished or released pursuant to the Plan from (i) commencing, conducting, or continuing in any manner, directly or indirectly, any suit, action, or other proceeding of any kind (including, without limitation, any proceeding in a judicial, arbitral, administrative or other forum) against or affecting the Released Parties or the property of any of the Released Parties; (ii) enforcing, levying, attaching (including, without limitation, any prejudgment attachment), collecting, or otherwise recovering by any manner or means, whether directly or indirectly, any judgment, award, decree, or order against the Released Parties or the property of any of the Released Parties; (iii) creating, perfecting, or otherwise enforcing in any manner, directly or indirectly, any encumbrance of any kind against the Released Parties or the property of any of the Released Parties; (iv) asserting any right of setoff, directly or indirectly, against any obligation due the Released Parties or the property of any of the Released Parties, except as contemplated or Allowed by the Plan; (v) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan; and (vi) taking any actions to interfere with the implementation or consummation of the Plan

56. Discharge. Pursuant to Section 13.4 of the Plan, except as expressly provided therein, upon the date that all Distributions under the Plan have been made, (a) each holder (as well as any trustees and agents on behalf of each holder) of a Claim against or Equity Interest in a Debtor shall be deemed to have forever waived, released and discharged the Debtors, to the fullest extent permitted by section 1141 of the Bankruptcy Code, of and from any and all Claims, Equity Interests, rights and liabilities that arose prior to the Effective Date and (b)

all such holders shall be forever precluded and enjoined, pursuant to section 524 of the Bankruptcy Code, from prosecuting or asserting any discharged Claim against or terminated Equity Interest in the Debtors.

57. No Waiver of Rights and Defenses. Except as otherwise agreed, the provisions of the Plan and this Confirmation Order shall not enjoin, impair, prejudice, have any preclusive effect upon, or otherwise affect (A) the rights of any Creditor to (x) effectuate a recoupment pursuant to common law or setoff pursuant to common law or otherwise in accordance with (a) section 553 and (b) sections 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560 or 561 of the Bankruptcy Code (subject to the Debtors' rights to contest the validity of such asserted right of setoff or recoupment or the applicability of any of the foregoing sections of the Bankruptcy Code) or (y) continue to assert the validity of a setoff previously taken by such Creditor or to seek authority from the Bankruptcy Court to exercise a right of setoff or recoupment (subject in each case to the Debtors' right to contest the validity of any such setoff or recoupment), or (B) any legal or equitable defense, including any defensive right of setoff or recoupment, that has been, or may be, asserted by any entity in response to a Litigation Claim, Avoidance Action of a Debtor or objections to Claims against a Debtor.

58. Indemnification Obligations. The obligations of each Debtor to indemnify, defend, reimburse or limit the liability of (a) directors, officers and any other employee who is held responsible for obligations of the Debtor incurred after the Commencement Date who are directors, officers or employees of such Debtor or a Debtor-Controlled Entity on or after the Commencement Date and (b) Released Parties, respectively, against any Claims or Causes of Action as provided in the Debtor's articles of organization, certificates of incorporation, bylaws, other organizational documents or applicable law, shall be assumed by such Debtor and will remain in effect after the Effective Date. Any such assumed

obligations owed in connection with an event occurring after the Commencement Date shall be paid as an Administrative Expense Claim under the Plan. Any such obligations owed in connection with an event occurring before the Commencement Date shall be treated as pre-petition Claims under the Plan. Nothing in the Plan shall in any way limit, modify, alter or amend the Debtor's limitation of liability of the Independent Directors set forth in Section 10.1 of the Restated Certificate of Incorporation of LBHI.

59. Special Provisions for United States Government.

a. As to the United States, its agencies, departments or agents, nothing in the Plan or Confirmation Order shall: (i) discharge, release or otherwise preclude (A) any liability of the Debtors arising on or after the Confirmation Date (defined for purposes of this section as the date the Confirmation Order becomes final and non appealable), (B) with respect to the Debtors, any liability that is not a Claim against a Debtor, (C) any valid right of setoff or recoupment, or (D) any liability of the Debtors arising under environmental or criminal laws as the owner or operator of property that such Debtor owns or operates after the Confirmation Date (defined for purposes of this section as the date the Confirmation Order becomes final and non-appealable); or (ii) limit or expand the scope of the discharge to which the Debtors are entitled under the Bankruptcy Code. The discharge and injunction provisions contained in the Plan and Confirmation Order are not intended and shall not be construed to bar the United States from, subsequent to the Effective Date, pursuing any police or regulatory action.

b. Nothing in the Plan, Plan Trust Agreement, or this Confirmation Order shall provide to any person or entity (other than a Debtor) any exculpation, release, discharge, preclusion of, or injunction against (i) any liability or other obligation owed by such person or entity to the United States, its agencies or departments, or (ii) or any Claim, Cause of Action, or other right held by the United States, its agencies or departments.

c. Nothing contained in the Plan or this Confirmation Order shall be deemed to have determined, or to bind the United States with respect to the determination of, the federal tax treatment of any item, distribution, person or entity, or the tax liability of any person or entity, including but not limited to the Debtors and the Liquidating Trust; *provided, however*, that the foregoing shall not affect the rights, claims, defenses and obligations of the United States or the Debtors under the Plan or otherwise with respect to the allowance, disallowance or treatment of Claims of the United States (including, without limitation, under the Bar Date Order and any stipulations between the Internal Revenue Service or United States and the Debtors), nor shall it affect any right of any Debtor or successor to a Debtor to request a determination of tax liability pursuant to section 505(b) of the Bankruptcy Code, or any defenses or objections of the United States with respect to a request for a determination of taxes by any person or entity pursuant to section 505(b) of the Bankruptcy Code.

Miscellaneous

60. Resolution of Potential Plan Objections. Each of the (i) Stipulation Among Debtors and Fidelity National Title Insurance Company Resolving Disputes in Connection with the Plan; and (ii) Stipulation and Agreement By and Among Fannie Mae, Freddie Mac and the Debtors Regarding the Debtors' Third Amended Plan, are approved.

61. Agreement with LBF With Respect to Section 8.15. The Debtors and the Plan Administrator shall not withhold pursuant to Section 8.15 of the Plan any Distribution to any Non-Controlled Affiliate on the basis that the Non-Controlled Affiliate may use such Distribution to satisfy a Claim of LBF against such Non-Controlled Affiliate. The Debtors or the Plan Administrator also shall not withhold pursuant to Section 8.15 of the Plan any Distributions

to LBF on account of any Allowed Claims of LBF on the basis that LBF may use such Distribution to satisfy a claim of another Non-Controlled Affiliate against LBF.

62. Certain Pending Securities Litigations.

a. Nothing in the Plan or this Confirmation Order shall affect the rights and obligations of the Debtors and of any party in interest as set forth in the Order Discharging Examiner And Granting Related Relief [ECF No. 10169].

b. Nothing in the Plan or in this Confirmation Order shall preclude any of (i) the Alameda County Employees' Retirement Association, Government of Guam Retirement Fund, Northern Ireland Local Government Officers' Superannuation Committee, City of Edinburgh Council as Administering Authority of the Lothian Pension Fund and Operating Engineers Local 3 Trust Fund, the court-appointed lead plaintiffs (collectively, the "Securities Action Lead Plaintiffs") or (ii) The Local 302 and 612 of the International Union of Operating Engineers–Employers Construction Industry Retirement Trust (the "MBS Action Lead Plaintiffs," and together with the Securities Action Lead Plaintiffs, the "Lead Plaintiffs"), lead plaintiffs in *In re Lehman Brothers Equity/Debt Securities Litigation*, Case No. 08-05523 (LAK), and *In re Lehman Brothers Mortgage Backed Securities Litigation*, Case No. 08-6762 (LAK) (the "Securities Litigation"), respectively, from seeking relief from the Court to pursue their Claims against the Debtors solely to collect from any available insurance proceeds. All rights of the Debtors to object or respond to requests for such relief or assert any defenses are fully preserved.

c. In the event that the pending settlements involving the Lead Plaintiffs in the Securities Litigation are not approved by final order or judgment of the United States District Court, Southern District of New York and do not become effective by their terms, nothing in the Plan or this Confirmation Order shall preclude the Lead Plaintiffs from seeking

discovery from any of the Debtors, the Plan Administrator or the Liquidating Trustee in accordance with the Federal Rules of Civil Procedure following the Effective Date. All rights of the Debtors, the Plan Administrator or the Liquidating Trustee under the Federal Rules of Civil Procedure to object or respond to requests or assert any defenses are fully preserved.

63. Alternative Dispute Resolution Procedures. The following Court Orders shall continue to apply and be binding on all parties following the Effective Date through the Closing Date: (a) *Order Pursuant to Section 105 of the Bankruptcy Code, Bankruptcy Rule 9014, and General Order M-390 Authorizing the Debtors to Implement Claims Hearing Procedures and Alternative Dispute Resolution Procedures for Claims Against Debtors* [ECF No. 8474]; (b) *Alternative Dispute Resolution Procedures Order for Affirmative Claims of Debtors Under Derivatives Contracts* [ECF No. 5207]; (c) *Tier 2 Alternative Dispute Resolution Procedures Order for Affirmative Claims of Debtors Under Derivatives Contracts for Amounts Not More than \$1 Million* [ECF No. 11649]; and (d) *Alternative Dispute Resolution Procedures Order for Affirmative Claims of the Debtors Under Derivatives Transactions with Special Purpose Vehicle Counterparties* [ECF No. 14789].

64. Claims Settlement Procedures. The following Court orders permitting the Debtors to compromise and settle Claims against the Debtors shall continue to apply and be binding on all parties following the Effective Date through the Closing Date: (a) *Order Pursuant to Sections 105 and 365 of the Bankruptcy Code to Establish Procedures for the Settlement or Assumption and Assignment of Prepetition Derivative Contracts* [ECF No. 2257], and all supplements to such order and (b) *Order Pursuant to Section 105(a) of the Bankruptcy Code and Bankruptcy Rules 3007 and 9019(b) Approving Settlement Procedures* [ECF No. 7936].

65. Debtors' Right Under Bankruptcy Rule 2004. The Debtors' shall retain following the Effective Date the same rights they had prior to the Effective Date under

Bankruptcy Rule 2004 and this Court's *Order Granting the Debtors Authority to Issue Subpoenas for the Production of Documents and Authorizing the Examination of Persons and Entities* [ECF No. 5910], shall remain in full force and effect following the Effective Date until the Closing Date.

66. Issuance of New Securities. The Plan Administrator, each Debtor or Debtor Controlled-Entity is authorized to (a) form and transfer certain assets of the Debtors and/or Debtor Controlled Entities to new (or utilize existing) entities, including, without limitation, one or more separately managed partnerships, REITs or other investment vehicles, to hold certain real estate or other assets of the Debtors and/or Debtor-Controlled Entities and, (b) issue New Securities for Distribution under the Plan. In the event that the Plan Administrator issues New Securities, each holder of Allowed Claims or Equity Interests against a Debtor that contributed assets to the entity issuing New Securities shall receive the relevant New Securities as Distributions in accordance with the Plan.

67. Exemption from Securities Laws. The offering, issuance, or distribution of the New Securities in accordance with the Plan is exempt from the provisions of Section 5 of the Securities Act of 1933, as amended, and any state or local law requiring registration for the offer, issuance, or distribution of a security by reason of section 1145(a) of the Bankruptcy Code.

68. Exemption from Transfer Taxes. Pursuant to section 1146(a) of the Bankruptcy Code, (a) the issuance, transfer, or exchange of notes or equity securities, (b) the creation of any mortgage, deed of trust, lien, pledge, or other security interest, (c) the making or assignment of or surrender of any lease or sublease, or (d) the making of or delivery of any deed or other instrument of transfer under, in furtherance of, or in connection with the Plan, and any merger agreements, agreements of restructuring, disposition or acquisition, liquidation or dissolution, any deeds, bills of sale, transfers of tangible property, or assignments executed in

connection with any disposition or acquisition of assets contemplated by the Plan (including by a Liquidating Trust) in each case whether as a result of sale, assignment, foreclosure or deed-in-lieu of foreclosure, shall not be subject to any stamp, real estate transfer, mortgage recording, or other similar tax to which the exemption under section 1146 of the Bankruptcy Code applies.

69. Governmental Approvals Not Required. Except as otherwise expressly provided in this Confirmation Order, this Confirmation Order shall constitute all approvals and consents required, if any, by the laws, rules, or regulations of any state or any other governmental authority with respect to the implementation or consummation of the Plan and any documents, instruments, or agreements, and any amendments or modifications thereto, and any other acts referred to in or contemplated by the Plan, the Disclosure Statement, and any documents, instruments, or agreements, and any amendments or modifications thereto.

70. Each federal, state, commonwealth, local, foreign, or other governmental agency is directed and authorized to accept the validity of (a) any and all documents, trust agreements, mortgages, and instruments and (b) all actions of the Plan Administrator and those acting on its behalf, that are necessary or appropriate to effectuate, implement, or consummate the transactions contemplated by the Plan, this Confirmation Order, and the agreements created or contemplated by the Plan, without payment of any recording tax, stamp tax, transfer tax, or similar tax imposed by state or local law.

71. Structured Securities. As provided in the Structured Securities Procedures Order, the Debtors are determining the Allowed amount of each Claim based on a Structured Security in accordance with the Structured Securities Valuation Methodologies. In accordance with the Structured Securities Procedures Order, the Debtors sent notices of a proposed Allowed Claim amount (“Structured Securities Notices”) to each holder of a Claim based on a Structured Security. To the extent that holders of such Claims agreed with the proposed amount or did not

respond by the established deadline (as such may have been extended by the Debtors), such Claim will be Allowed in the amount set forth on the Structured Securities Notice, subject to the Debtors' right to object to Claims based on Structured Securities on the grounds that such claims do not include a blocking number or include an invalid blocking number, are duplicative of other claims, have been amended and superseded, or otherwise do not comply with the provisions of the Bar Date Order is fully preserved; *provided* that, the Allowed amount of such Claims may be increased to the extent that in connection with the resolution of a disputed Structured Securities Notice, the Debtors determine that the value of a structured security is greater than the amount previously proposed by the Debtors. As indicated in paragraph 44 hereof, holders of Convenience Claims or Convenience Guarantee Claims shall not be entitled to any increase in the Allowed amount of their Claims.

72. Final Fee Applications. Pursuant to Section 2.2 of the Plan, all entities seeking an award by the Court of compensation for services rendered or reimbursement of expenses incurred through and including the Effective Date under sections 327, 328, 330, 331, 503(b)(2), 503(b)(3), 503(b)(4), or 503(b)(5) of the Bankruptcy Code (i) shall file their respective final applications for allowance of compensation for services rendered and reimbursement of expenses incurred by the date that is one hundred twenty (120) days after the Effective Date, and (ii) shall be paid in full in such amounts as are Allowed by the Court (A) on the date on which the order relating to any such application is entered, or as soon thereafter as practicable, or (B) upon such other terms as may be mutually agreed upon between the claimant and the Debtors.

73. The Debtors are authorized to pay, in the ordinary course of business and without the need for Court approval, the reasonable fees and expenses, incurred after the

Effective Date, of the professional persons employed by the Debtors and the Creditors' Committee.

74. Fees and Expenses of Indenture Trustees and Creditors' Committee Members. The reasonable fees and expenses, including attorneys' fees, of (i) the indenture trustees for the Senior Notes and the Subordinated Notes issued by LBHI and the (ii) individual members of the Creditors' Committee shall be paid in accordance with Section 6.7 of the Plan upon application to, and subject to approval of, the Bankruptcy Court, after reasonable notice to and with opportunity to object for the United States Trustee and all parties in interest; *provided*, that nothing in the Plan or this Confirmation Order shall affect any party in interest's right to object to or defend any such application. All objections to any such application are expressly reserved, including, without limitation, any objections regarding the appropriate legal standard for such applications, and any objections that payment of such fees is unauthorized under the Bankruptcy Code and Bankruptcy Rules.

75. Definition of Equity Interests. The definition of Equity Interest included in the Plan is without prejudice to the Debtors' rights to object to, or seek to subordinate, any Claim, and any Creditor's rights to defend against such action.

76. Retention of Litigation Claims. Except as expressly provided in the Plan, nothing contained in the Plan or herein shall be deemed to be a waiver or the relinquishment of any rights, defenses or Litigation Claims that the Debtors may have or choose to assert on behalf of their respective estates under any provision of the Bankruptcy Code or any applicable nonbankruptcy law that the Debtors had prior to the Effective Date, including, without limitation, (a) any and all Claims against any person or entity, to the extent such person or entity asserts a crossclaim, counterclaim, and/or Claim for setoff which seeks affirmative relief against the Debtors, their officers, directors, or representatives, (b) any and all Claims or rights arising under

any tax sharing agreement among the Debtors and their Affiliates, (c) any and all Claims for reimbursement of costs incurred for the benefit of any Affiliate, including in connection with the disposition of an Affiliate's assets; (d) any and all Avoidance Actions, and (e) any right of setoff or other legal or equitable defense and remedies. The Debtors shall have, retain, reserve, and may assert all such rights, defenses or Litigation Claims after the Effective Date fully as if the Chapter 11 Cases had not been commenced.

77. Retention of Jurisdiction. This Court may properly and, upon the Effective Date shall, consistent with Article XIV of the Plan, retain exclusive jurisdiction over all matters arising under or related to, the Chapter 11 Cases, including, without limitation, the matters set forth in Article XIV of the Plan.

78. Debtors' Rights of Subrogation.

a. Except as otherwise agreed by the Debtors, to the extent that a Debtor now has or becomes legally entitled to be subrogated to the rights of any Creditor, including on account of any Distributions received by holders of Allowed Guarantee Claims that are satisfied in full in accordance with Section 8.13(a) of the Plan, (i) such Creditor shall be deemed to have consented to the subrogation of its right against any third-party, including, without limitation, a Primary Obligor, that may be obligated to reimburse or indemnify the Debtor for all or a portion of such Distribution, or (ii) the Debtor shall have all rights, title and power as subrogee of the Creditor against any such third-party, including, without limitation, a Primary Obligor, to the fullest extent permitted by applicable law.

b. Except as otherwise agreed by the Debtors, the Debtors' rights to assert or prosecute Litigation Claims for reimbursement, indemnification, recoupment or any similar right, including, without limitation, any right to setoff with respect to any of the foregoing, against any entity, including, without limitation, a Primary Obligor, on account of

Distribution made to the holders of Allowed Claims or Allowed Guarantee Claims, shall be fully preserved to the fullest extent permitted by applicable law.

79. The Debtors' rights to assert or prosecute Litigation Claims for reimbursement, indemnification, recoupment or any other similar right, including, without limitation, any right to setoff with respect to any of the foregoing, against any entity, including, without limitation, a Primary Obligor, on account of Distributions made to the holders of Allowed Claims or Allowed Guarantee Claims, shall be fully preserved to the fullest extent permitted by applicable law.

80. Trading Restrictions. The restrictions imposed by the *Order Pursuant to Sections 105(a) and 362 of the Bankruptcy Code Approving Restrictions on Certain Transfers of Interests in the Debtors' Estates and Establishing Notification Procedures Relating Thereto* [ECF No. 1386], as the same may be amended from time to time, shall remain effective and binding through the closing of LBHI's Chapter 11 Case.

81. Equity Interests in LBHI. On the Effective Date, the LBHI Stock shall be canceled and one new share of LBHI common stock shall be issued to the Plan Trust which will hold such share for the benefit of the holders of such former LBHI Stock consistent with their former relative priority and economic entitlements; *provided, however*, that the Plan Trust may not exercise any voting rights appurtenant thereto in conflict with Article VII of the Plan.

82. Equity Interests in Subsidiary Debtors. On the Effective Date, the Equity Interests in each of the Subsidiary Debtors shall be unaffected by the Plan, in which case the Debtor holding such Equity Interests shall continue to hold such Equity Interests.

83. Nonoccurrence of Effective Date. In the event that the Effective Date does not occur, then (a) the Plan, (b) the assumption or rejection of executory contracts or unexpired leases pursuant to the Plan, (c) any document or agreement executed pursuant to the

Plan, and (d) any actions, releases, waivers, or injunctions authorized by this Confirmation Order or any order in aid of consummation of the Plan shall be deemed null and void; *provided* that this paragraph shall not have any affect on any provisions of the Bilateral Settlement agreements, if any, that survive the termination of such agreements. In such event, nothing contained in this Confirmation Order, any order relating to consummation of the Plan, or the Plan, and no acts taken in preparation for consummation of the Plan shall be (i) deemed to constitute a waiver or release of any Claims or Equity Interests by or against the Debtors or any other person or entities, to prejudice in any manner the rights of the Debtors or any person or entity in any further proceedings involving the Debtors or otherwise, or to constitute an admission of any sort by the Debtors or any other persons or entities as to any issue, or (ii) construed as a finding of fact or conclusion of law in respect thereof.

84. Notice of Entry of Confirmation Order. On or before the thirtieth (30th) Business Day following the date of entry of this Confirmation Order, the Debtors shall serve notice of entry of this Confirmation Order (which, in the Debtors' discretion, may be combined with the Notice of the Effective Date) pursuant to Bankruptcy Rules 2002(f)(7), 2002(k), and 3020(c) on all Creditors and interest holders, the United States Trustee, and other parties in interest, by causing notice of entry of the Confirmation Order (the "Notice of Confirmation"), to be delivered to such parties by first-class mail, postage prepaid. The notice described herein is adequate under the particular circumstances, and no other or further notice is necessary. The Debtors also shall cause the Notice of Confirmation to be published as promptly as practicable after the entry of this Confirmation Order once in each of *the Financial Times*, *The Wall Street Journal* (Global Edition – North America, Europe, and Asia), and *The New York Times* (National).

85. Notice of Effective Date. Within five (5) Business Days following the occurrence of the Effective Date, the Plan Administrator shall file the notice of the occurrence of the Effective Date and shall serve a copy of same on the Master Service List, as defined in the *Second Amended Order Pursuant to Section 105(a) of the Bankruptcy Code and Bankruptcy Rules 1015(c) and 9007 Implementing Certain Notice and Case Management Procedures* [ECF No. 9635].

86. No Amendments to Proofs of Claim. After the Effective Date, other than a proof of Claim relating to an executory contract or unexpired lease that is rejected pursuant to the Plan, a proof of Claim relating to a prepetition Claim may not be filed or amended without the authority of the Court.

87. Barclays Sale Order. Nothing contained in the Plan, the Disclosure Statement or the Confirmation Order constitutes or shall be construed as any modification or amendment to the Barclays Sale Order and the rights and defenses of each of the Debtors, the SIPA Trustee (on behalf of LBI), Barclays Bank PLC and Barclays Capital Inc., with respect to any litigation, adversary proceeding, contested matter, claims adjudication, appeal or other dispute against the other are fully preserved, including, without limitation, any rights, defenses, counterclaims and/or cross-claims asserted in connection with or related to the Sale Order.

88. Payment of Statutory Fees. On the Effective Date and thereafter, the Plan Administrator and any Liquidating Trustee thereafter appointed, shall pay all fees incurred pursuant to Section 1930 of title 28, United States Code, together with interest, if any, pursuant to Section 3717 of title 31, United States Code for each Debtor's case, or until such time as a final decree is entered closing a particular Debtor's case, a Final Order converting such Debtor's case to a case under Chapter 7 of the Bankruptcy Code or a Final Order dismissing such Debtor's case is entered.

89. Effectiveness of Plan Provisions. Each term and provision of the Plan, as it may have been altered or interpreted by the Bankruptcy Code in accordance with section 15.13, is valid and enforceable pursuant to its terms.

90. Immediate Effectiveness. Any stay of this Order provided by any Bankruptcy Rule, including Bankruptcy Rule 3020(e) is hereby waived, and the terms and provisions of this Order shall be immediately effective and enforceable upon its entry.

91. Conflicts Between Order and Plan. To the extent of any inconsistency between the provisions of the Plan and this Confirmation Order, the terms and provisions contained in this Confirmation Order shall govern. The provisions of this Confirmation Order are integrated with each other and are nonseverable and mutually dependent unless expressly stated by further order of the Court.

Dated: New York, New York
December 6, 2011

s/ James M. Peck
HONORABLE JAMES M. PECK
UNITED STATES BANKRUPTCY JUDGE